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12 April 1977

TRANSLATIONS ON EASTERN EUROPE  
POLITICAL, SOCIOLOGICAL, AND MILITARY AFFAIRS  
No. 1377

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CZECHOSLOVAKIA

U.S. HUMAN-RIGHTS STAND, KOHOUT'S LETTER TO CARTER SATIRIZED

Prague RUDE PRAVO in Czech 12 Mar 77 p 7

[Article by Zdenek Horeni: "Mrs Slepicka's Injured Knee"]

[Text] The U.S. Government decided to establish a new department. Because all kinds of irresponsible and insidious rumors about its covert mission are circulating around, for instance, that it is allegedly just another differently camouflaged branch of the discredited CIA, the White House has decided to give the newly created institution a completely non-controversial and unequivocal name, The Human Rights Department. This fully corresponds with the advice given recently to the president by his prominent guest, the criminal Bukovsky, namely, that the "U.S. policy must be firm and unambiguous on the question of human rights."

To avoid information slanted by various hear-say propaganda spreaders, which would needlessly call for denials by Washington, we went straight to the horse's mouth--the new U.S. department.

We were received by its press secretary, Mr Human Right, and in all frankness it must be said that he was most communicative.

"Mr Right, what importance does the new U.S. Government assign to this new department?" We leaped, so to say, in medias res, or straight to the heart of the matter.

"Gentlemen, my president has made my reply very easy. Please permit me to quote from his press conference of 9 March: 'I think it's entirely appropriate for our own country to take the leading role. And let the whole world say that the focal point for the preservation and protection of human rights is in the United States of America. I am proud of this.' End of quote, gentlemen. From it you certainly will conclude how extremely urgent the need for such a focal point as our new department is."

We asked Mr Press Secretary whether the new department based its agenda on the green pastures or whether it had any continuity.

"Of course, gentlemen, there is a direct continuity, for instance, with the Department of State..."

"You mean its special section for human rights?"

"That's right, gentlemen. As you have read, Mr Christopher of the State Department recently declared in the Senate that--please permit me another quotation: 'U.S. embassies all over the world will receive instructions to keep close contacts with human rights organizations and their representatives.'"

"In other words, it is in fact a department for intervention in other states' internal affairs"--we objected mildly.

"That is, gentlemen, an oversimplification. In reality this function stems from the fact that the United States is the world defender of human rights, as Mr Carter has declared with full authority. And what is good for the United States is good for the whole world."

"Whom will the U.S. ambassador contact, for example, in Chile or South Korea or South Africa concerning human rights?" As our brave question indicates, we tried to provoke Mr Right.

"Well, gentlemen, you do not understand. We have the most cordial contacts with President Pak Chong-hui's government. And we haven't the slightest ideological differences with Mr Vorster, just on the contrary. And in Chile?"

"In an interview with the Hamburg publication DIE WELT, Pinochet was also full of praise for his relations with the United States"--we decided to come to Mr Right's aid.

"Yes, indeed, we have quite correct relations with President Pinochet. With your permission I shall make another reference to the White House. The president recently rejected those silly remarks uttered by that guy Tyson in Geneva. Well, here you have it in black and white in the papers: 'Remarks made by our delegate concerning our past involvement in Chile's political affairs were incorrect.'"

"May I ask what is 'correct' in your view?" We were eager to get a better idea.

"Gentlemen, the president has solved my problem also in this respect. He already mentioned that Senator Church's committee had not found any evidence of U.S. participation in the coup against the Allende government. Some statements, in my opinion probably correct ones, were heard to the effect that we had rendered financial and other support--well, I mean just financial support to be exact--to those Chilean political elements who may have contributed to the change of the government. President Carter, however, does not think that there is any proof of illegality as far as this question is

concerned; the declaration made by our delegate in Geneva was his personal opinion and did not express our government's position."

After this explanation we did not have the nerve to ask any further ticklish questions about the "cordial relations" between Chile and the United States and, therefore, we referred again to the original purpose of our visit. To be sure, we were most interested in the operational agenda of the new department.

Pleased that we had changed the subject Mr Human Right gave us some confidential information straight from the White House. Allegedly, the president is an extremely busy man, with all those daily meetings, receptions, press conferences, and now he has taken upon himself also such time-consuming obligations as receiving the dissidents.

Letters are pouring into the White House now. There is no end to them, especially after the president declared himself a world defender of human rights. Many Americans got it all wrong, thinking that this concerns also the internal affairs of the United States. And so all kinds of maniac scribblers are writing, particularly from overseas, who would give their eyeteeth for the president's autograph. "One of the tasks of the Department for Human Rights," the press secretary explained, "is to help the president select from all the letters those that merit a reply and those that do not. The president is a very choosy man and won't answer every Tom, Dick and Harry."

Meanwhile, the telephone began ringing. The secretary's office was calling. They just received a letter from Prague through secret channels from some author named Slepicka. It was a very serious matter that could not wait: his wife's knee got injured by someone in the street. The reliable DPA agency confirmed the information, announcing directly from Prague for all the world to hear that the Czech author Slepicka had "pressed legal charges for the crime of bodily injury of his wife's knee sustained while she was resisting arrest." Thus, her human rights have been intolerably violated.

"You must excuse me, gentlemen, but we have to end our nice chat," Mr Human Right declared sheepishly, when he put down the red telephone receiver. "I must go to the White House immediately. When human rights are being violated, everything else must wait..."

Indeed, Mrs Slepicka's injured knee did not permit any delay.

[Translator's note: Slepicka--little hen, Kohout--rooster.]

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CZECHOSLOVAKIA

'TVORBA' ATTACKS BENES' JUSTICE MINISTER, CHARTER 77 SIGNATORY

Prague TVORBA in Czech No 5, 2 Feb 77 pp 3, 5

[Article by Milos Prosek: "They Would Join with the Devil Himself..."]

[Text] Less than 29 years ago TVORBA published a brief news item which is now all but forgotten: one day in 1948 a photograph of the graduating class of the Drtina Secondary School for Girls in the Smichov district was put on display in the MIMRA store window on the 28 October Street in Prague. A few days later, however, it disappeared under the counter of the store because people allegedly threatened to demolish the store. The salesclerks were unable to persuade the indignant Prague citizens that the school which put the picture on display did not bear the name of Dr Prokop Drtina, the putschist and at that time already former minister of justice, but of his father, a university professor who was to have become minister of education in the government of the bourgeois Czechoslovak Republic after World War I. The banner bearing the name of that Smichov secondary school, carried by the students in the 1 May parade also provoked general indignation. There was no other choice for the school administration but to change the secondary school's name, lest it needlessly irritate the Prague citizens.

To the young and some of the middle-age generation Drtina's name hardly rings a bell today. Recently, however, Dr P. Drtina re-emerged after many years to reaffirm his visceral reactionary character, his anticommunism and anti-Sovietism. That is hardly surprising. Drtina has always been so inclined. We have, however, another reason to bring this up again: millions of our country's citizens have recently read the RUDE PRAVO editorial concerning the anti-state, anti-socialist, anti-national demagogic smear which under the title Charter 77 viciously slanders the Czechoslovak Socialist Republic and the revolutionary achievements of the working people. At the first we could hardly believe our eyes--Dr Drtina's name appeared among the signatories of the "charter." He was joined by individuals such as Vaclav Havel, Pavel Kohout, Jiri Hajek, Ludvik Vaculik, Frantisek Kriegel and other political wrecks some of whom--incredible as it may sound--used to be "once upon a time" members of the communist party. What was the basis for such a reactionary constellation of a handful of self-appointed "fighters"

for "democracy" and "human rights"? What is those people's real concern anyway? The replies to these questions may be found, among other things, in Dr Prokop Drtina's life story....

It is said that along with the "blessings of the old age" many people experience a feeling of equanimity which is also reflected in their willingness to admit their losses. Of course, Drtina is an exception even in this respect: even at the age of 77 he does not hesitate to start another political fight in the interest of the reactionary elements who are not yet reconciled with the fact that "they don't have a chance in Czechoslovakia."

Drtina won his first "spurs" during the era of the bourgeois Republic. Right after his graduation from the law school of Charles University he served in the Czech Financial Prosecutor's Office and began moving up in the highest ruling political circles. As a university student he had been active in the students' group of the National Labor Party, however, in 1928 he joined the Czechoslovak National Socialist Party among prominent leaders and leading officials he belonged, particularly after the liberation of our country in 1945. During World War II he lived in exile in London--from there he returned to Czechoslovakia via Moscow with the coterie of the then president Benes in May 1945. At least at first, Drtina was able to cash in on his popularity gained under the pseudonym of Pavel Svaty on the London radio's foreign broadcast during the war. However--just as other members of his class--he participated in the fight against fascism for the one fundamental reason: to ensure that at least that part of the bourgeoisie that had not been disgraced in the people's eyes by collaborating with the Nazis could regain its ruling positions in Czechoslovakia. To that effort Drtina subordinated all his activity in the liberated republic as well. His name was no less important than the names of other representatives of the reaction--Zenkl, Ripka, Krajina, Firt, or the names of the Peoples Party members Sramek and Hala, and in Slovakia the names of Lettrich, Ursiny and other such fighters for "democracy." In that anticommunist community Drtina became so notorious that up until February 1948 he personified the idea of total, and thus also moral disintegration of the bourgeois policy in our country.

It is not by accident that when one reads Drtina's speeches and articles, the current anticommunist tactics come to one's mind: at that time Drtina also claimed to be a socialist and to stand for freedom and democracy. He openly discussed the kind of socialism he really had in mind, for instance, in connection with the conclusions of the National Socialist Party congress in 1947. For the time being let us pass Drtina's effort to present this action, which became a signal for vicious anticommunist attacks, as a positive internal-political event; let us consider first of all how he characterized his concept of socialism at that time. To quote the words from Drtina's article in his political party's central publication, "the congress quite clearly approved the National Front and socialism, of course (underlined by the author of that article) humane, progressive, critical socialism in the

spirit of Masaryk and Benes, i.e. politically speaking, the line to the left of center.... The party is ready (again according to P. Drtina's assurances at that time) to cooperate with all other parties whether to the left or to the right."

We need no lengthy explanations to understand the real target of such statements: Masaryk's humane socialism presented to us again under different names in 1968 actually did not mean then and does not mean now anything else than capitalism pretending to be folksy. Also, all Drtina's assurances of his loyalty to the National Front were no more than camouflaging maneuvers. As the author of the keynote article on the results of the National Socialists' congress, he had completely forgotten even to mention, for example, the joint agreement of the political parties pledging to fulfill all the tasks of the government's program.

One of the most characteristic traits of the National Socialist Party's policy was to sabotage the idea of friendship, alliance and cooperation with the Soviet Union, the most fundamental of the programs postulated by the National Front government. The leading representatives of the National Socialist Party not only failed to oppose the coarse anti-Soviet provocations committed by former agrarian leaders and other reactionaries, but on the contrary, they supported and encouraged such tendencies. The "handful of grist" which was Drtina's contribution to the anti-Soviet mill became quite voluminous. It will suffice to recall his speech in the town of Benatky nad Jizerou where he sharply attacked the criticism against his policies published in the Soviet press. And it is only typical that in Drtina's speeches such overt and covert anti-Soviet provocations were always connected with sharp attacks against the communist party for having allegedly failed to inform our ally properly.

The right-wing leadership of the Czechoslovak National Socialist Party with its reactionary allies used every possible means to prevent the policy of the National Front and the progress toward genuine socialism from being fulfilled. It was no accident that in January 1947 Drtina spoke at the solemn convocation of the Lawyers' Association against any "violent revolution" which--according to his statement colored with anti-Sovietism--"only politically and culturally immature states and societies engaged." It was he with other reactionary representatives who carried the extraordinarily heavy responsibility for the sabotage of the Kosice Government Program and of the principles of policy expressed in the program document of the National Front government. Drtina's activity in the office of minister rendered innumerable proofs to that effect....

Neither the former minister Jiri Hajek nor Frantisek Kriegel and others have been able to erase from Drtina's life the disgrace connected with the concept of "Drtina's system of justice." As a minister Drtina gave evidence of what exactly he thought of the people, democracy, freedom and justice.

Among the fundamental problems disturbing wide masses of the population after the liberation was the categorical demand for a just and strict punishment of the war criminals, the demand to purge the public life of wartime traitors and Nazi collaborators. As one of the most substantive articles it was also included in the government program which Drtina had signed and pledged to fulfill. He approached the fulfillment of that obligation with his typically bourgeois cynicism and morals. People or no people, who cares, when it concerned the interests of the bourgeoisie, Drtina's ostentatious emphasis on patriotism was sidelined. Of course, he knew full well that a thorough reform would further undercut the already shaky positions of the bourgeoisie.

Seemingly half-blind, Drtina's system of justice was, however, in reality class oriented when it concerned unqualified traitors. To evade the indignation evoked by such practices, Drtina tried to juggle cliches about a Masaryk-style democracy--"he kept forgetting" to add one thing, namely, that it included also shooting into unemployed and striking workers. He worked real magic with legal regulations in order to disguise the real issues. However, as the saying goes, you cannot hide the truth for long and you cannot fool a smart fellow. Even the reactionaries who applauded his policies were well aware that this was a question of preserving at all costs the remaining positions of the bourgeoisie, to get every capitalist or landowner collaborator's little soul out of a mess and to put such individuals under the banners of the National Socialist Party's reactionary leadership.

The information that three Protectorate ministers had been transferred from the prison to a hospital acted as a warning signal already in October 1945. The very next day one of them was already walking in the streets of Prague. Further developments proved that this was no exception: Drtina, who had taken over the office of minister of justice from the National Socialist Jaroslav Stransky, demonstrated his sense of "democracy" and human rights" more than enough: in public eyes he became an infamous defender ideologically and practically inspiring legal decisions whereby traitors of the Czech nation were "persecuted" by disproportionately low sentences or no sentences at all.

When in protest against the mild sentences in the trial with the Protectorate government, the honest people's indignation led to a demonstration in the Staromestske Namesti [Old Town Square] Mr Drtina, in a radio broadcast in August 1946, was bold enough to offer his "proper guidance" to the agitated public.

It is difficult to present a mere fragment of the real face of Drtina's system of justice, of his cynical policy and his disdain for public opinion. Although Drtina always stressed the independence of the courts, the executors of the reactionary judicial policy never hesitated to evade or twist the law when it was advantageous to the interests of the bourgeoisie. In those cases where he could not wiggle out Drtina pretended that in fact he was not

to blame--everything was the matter of the prosecution, courts or parole boards and he, the moving spirit and executor of such decisions, could not interfere.

Drtina had always followed the motto of his colleague in the executive committee of the National Socialist Party, the no less infamous reactionary minister Dr Hubert Ripka: "The worse the things are (for the republic)--the better (for the reactionaries.)" For example: of the total number of criminal charges made by police authorities against the black marketeers benefiting from post-war shortages, only one percent of cases resulted in conviction.

Well known is also the role of Drtina's system of justice in the solution of the problem of the so-called confiscated property, where the reactionaries launched a campaign to prevent the confiscated plants from being transferred to the nationalized industry and turn them over into the hands of Czech and Slovak capitalists. At that time the okres secretariats of the National Socialist Party received confidential memoranda with instructions to ascertain the profits yielded by the confiscated property. In all, this pertained to approximately 10 percent of the entire industry. The unprofitable, losing enterprises were to be magnanimously transferred to national enterprises, while the prospering and well equipped enterprises were to be assigned to the capitalists. Such a program was soon followed by several decisions of Drtina's system of justice concerning the transfer of several confiscated enterprises into the hands of private persons. Naturally, this too failed to turn out right for Mr Drtina, it could not turn out right--however, the working people had to fight hard for the future of their enterprises which were listed among the confiscated property. The most notorious became the struggle and strike in Varnsdorf, but stubborn fights took place in some other places--in Ceske Budejovice, Usti nad Orlici, Poprad, Sered and elsewhere. Of similar nature was, for instance, the case of the Orion factory in Prague, etc., etc.

When despite the opposition of the reactionary forces, Czechoslovakia refused to join the Marshall Plan whose objective was to suppress the communist and revolutionary movement in the West and to play the role of a Trojan horse for capitalism in the countries of peoples' democracies, which today even the imperialists no longer deny, Dr Drtina was again among the first of the National Socialist Party's prominent members who at a secret meeting in Karlovy Vary promoted the continuation and consolidation of their policy under the slogan: "Communism--Enemy No 1."

And again it was Drtina who at the time of the then Slovak Democratic Party discussed with Dr Lettrich the coordination of the Slovak and Czech reaction's anti-national, anticommunist policy. We regard as symbolic the fact that the discussions of the National Socialist Party's reactionary leaders which--in Ripka's testimony--adopted the decision to "turn the covert crisis into an overt one," took place in Drtina's apartment. When on 23 February 1948 the then president Benes officially received the reactionary ministers for

the last time, Drtina was among those who, as those bankrupt men had allegedly declared to Benes, were ready to risk all--including an open fight against the communists and the threat of arrest.

After their attempt to incite a counterrevolutionary coup had fizzled, most of that family of conspirators found their salvation in their flight to the West. Drtina lost his nerves completely--he attempted suicide and thus, stayed in the country. However, he never became reconciled with the victory of the people and with the idea of the building of socialism.

The moving spirits and signatories of Charter 77 are familiar with those facts about the political profile and character of Dr Prokop Drtina--many of them have regarded and condemned him once as a reactionary. Where are the snows of yesteryear?! Naturally, Vaclav Havel and some others, themselves born in the same bourgeois bag, never have blamed him for that--to be sure, Drtina had oriented his policy to their interests. The others, motivated today by their analogical fate of bankrupt individuals, have forgiven him magnanimously. Dr Prokop Drtina has not changed his opinions; he remains the same as before--a bourgeois politician, although out of active service for long years. However, Hajek has changed, and so have Kriegel, Kohout and others. Their current ideological association with Drtina is quite symptomatic. In their hurt vanity and anticommunism they would not hesitate to join even the devil himself.

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CSO: 2400

CZECHOSLOVAKIA

FRG COMMENT ON PATOCKA'S DEATH FOLLOWING INTENSIVE INTERROGATION

Frankfurt/Main FRANKFURTER ALLGEMEINE in German 14 Mar 77 p 19

[Article signed "hpr": "Deadly Interrogation"]

[Text] On 6 January of this year the 69 year old professor of philosophy Jan Patocka living in retirement in Prague suddenly became a political figure and the target of the Czechoslovak secret police. Because on that day, the Charter 77 text signed by Jan Patocka was confiscated. Till then the scientist's name was known only in his profession: as the editor of Edmund Husserl's literary legacy, as a critic, translator and editor of Hegel's work and author of the standard philosophical work "The Natural World as a Philosophical Problem." After the communist putch in 1948, he lost his chair at Charles University to which he was allowed to return for a few months during the 1968 reform period. After 21 August, he was again barred from teaching and publishing and forced into retirement. There was nothing to indicate that this man of all people was to become one of the spokesmen for the human rights movement in the CSSR.

The decisive impulse for his political involvement, which was more a humanist one, came from the court proceedings against a group of young musicians in the summer of 1976. Patocka personally went to the General Prosecutor and intervened on behalf of the young people whose music, in his own words, he did not understand; but he was appalled at the injustice done to them by being marked as criminals. When, in spite of international protests, the proceedings could not be prevented, intellectuals and citizens from all walks of life decided to raise their voice, remain silent no longer and do something about the reprisals: Patocka agreed to being elected spokesman for the Charter.

He must have known what he took upon himself. The police did not spare him: after the publication, he and two other spokesmen were questioned for a week almost without any interruption, he and his family were under constant police surveillance, his telephone was disconnected and his car immobilized. In spite of it he visited Dutch Minister of Foreign Affairs van der Stoep who was on an official visit in Prague.

Dutch newspapermen reported that Patocka cried after the discussion: he was no longer up to the week-long terror which invaded his life at the beginning of January, unleashed by the secret police. After the meeting with van der Stoep Patocka was again questioned for more than 11 hours until his final collapse from which he no longer recovered. In recent days his next of kin reported that he was almost paralyzed, unable to speak, and that the worst was to be expected. In spite of it the police did not lift its surveillance.

Jan Patocka died on Sunday morning as a result of this collapse. His death must be attributed to the Czechoslovak secret police and to those who have unleashed their terror against the spokesmen and signers of the Charter 77. Prague could not have set a more shocking example: one of the spokesmen, Vaclav Havel, has been held since 8 weeks ago in detention pending investigation, another one, Jan Patocka, was systematically hounded to death. Patocka wanted to uphold the respect for human rights and engage in a dialog with those who now have his life on their conscience: a bitter proof for the justified reproaches contained in the Charter 77.

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CSO: 2300



CZECHOSLOVAKIA

HAVEL APPARENTLY TO BE ACCUSED OF 'OVERTHROW OF THE REPUBLIC'

Frankfurt/Main FRANKFURTER ALLGEMEINE in German 5 Mar 77 p 27

[Article by Hans-Peter Riese: "Vaclav Havel Accused of 'Overthrow of the Republic'"]

[Text] The dramatist Vaclav Havel, one of the three spokesmen of the Charter 1977, has been held in prison in Prague for more than a month. Now we have the first more definite reports of the accusation likely to be leveled against him. Document No 6 of the Charter discloses that Havel is to be accused of "overthrow of the republic."

The respective article of the Czech penal code (98) reads: "1) Imprisonment ranging from 1-5 years will be imposed on anyone who, by reason of hostility to the socialist social and state system of the republic, commits destructive acts against its social and state system, territorial integrity, defense preparedness, independence or international interests."

Havel is also accused as per paragraph 2 of this article and thus liable to receive a maximum sentence of 10 years imprisonment. Paragraph 2/a reads: "...the facts of the matter defined in paragraph 1, established in connection with a foreign power or foreign agent."

This is what Dr Lukavec, Havel's defense counsel, told Mrs Havel. Article 98 was of particular importance in earlier political trials in the CSR, especially those of the summer of 1971, in the course of which Milen Huebl, former rector of the Advanced School of Politics, was sentenced to 6½ years' imprisonment. As accusations based on this article deal with "offenses against state security" only very few counsel admitted for this kind of trial are available to the defendant.

Document No 6 further discloses that other signatories of the Charter (formerly asked by the police for their evidence as witnesses only) have now also been interrogated with respect to a crime as per article 98. This reinforces the suspicion that the Prague prosecutor general's office (which deals with such indictments) maintains the theory that the Charter was an attempt, controlled from abroad, at organizing revolution in Czechoslovakia.

As in earlier political trials the authorities are obviously attempting to prove conspiracy in connection with the Charter. According to article 100 of the penal code imprisonment of up to 3 years may be imposed on anyone who incites hostile acts against the social and state system of the republic. The police obviously consider Václav Havel an "inciter."

To find the necessary proof "evidential materials" have been seized in his home on several occasions, including his typewriter. In general typewriters seem to evoke the special suspicion of the police. Several signatories have reported that their typewriters were seized and samples of writing taken from others. Until now Havel has not been allowed any visitors. His counsel talked with his client twice but--something which is not permissible in Czechoslovak law either--did not attend any of the interrogations. He is said to be considering dropping the case. It is not clear whether this is happening as a result of the pressure exerted by the authorities, or whether he is motivated by other reasons. In the meantime it has been reported that Havel was permitted to write two brief letters to his wife but not to receive any from her; he did, however, get a parcel.

In view of the fact that the indictment will be based on article 98 it is possible to know already at this stage that the public will be excluded from the trial; the court will take shelter behind the "state secrets" allegedly to be discussed. Jan Patocka and Jiri Hajek, the two spokesmen for Charter still at large, have again demanded that those arrested be set free (in addition to Havel the signatories Frantisek Pavlicek and Jiri Lederer as well as theatrical director Ota Ornest--not a signatory--have been imprisoned). They point out that this imprisonment is bound to add fuel to the public's assumption that illegal measures are involved because the Charter itself does not violate any Czechoslovak law. Of course, should the trial be held on the model of earlier political trials, the court could disregard this point altogether. In such a case it would only be necessary for the prosecution to prove that the effects of the Charter had objectively injured the interests of the Czechoslovak state.

Evidently the authorities have not yet got very far with their arguments: All those interrogated up to now as witnesses have been unanimous in reporting that they had used their right to refuse giving testimony. Should continued difficulties about evidence prevent a proper build-up of the case, the likelihood of a fabricated trial is expected to increase. Havel himself has refused to speak. His counsel told Mrs Havel that her husband's interrogations were taking place in the "form of literary discussions."

11698  
CSO: 2300

EAST GERMANY

LIEUTENANT GENERAL BRUENNER DISCUSSES PARTY INFLUENCE IN NVA

East Berlin NEUER WEG in German Vol 32 No 5, 1977, signed to press 24 Feb 77  
pp 199-202

[Article by Lt Gen Horst Bruenner, deputy director of the National People's Army's Main Political Administration: "Active Party Work--A Prerequisite of High Combat Readiness"]

[Text] Enthused by the Ninth SED Congress and consciously striving to fulfill the promise of the delegation of the NVA [National People's Army] and the GDR Border Troops at the party congress, NVA members and civilian employees in past months have spared no effort to implement the decisions of the ninth party congress at their posts.

On the occasion of the NVA anniversary recently commemorated by NVA members, it was possible to again demonstrate that the NVA is a true people's army. Optimistic and filled with a desire for accomplishment, the NVA approached the fulfillment of the military class mission assigned it by the ninth party congress, namely, under the leadership of our party, "shoulder-to-shoulder, in firm brotherhood-in-arms with the glorious Soviet Army and the other fraternal socialist armies:

--"To reliably protect the socialist order and the peaceful life of the citizens of the German Democratic Republic and all states of the socialist community from any attacks of the aggressive forces of imperialism and reactionism,

--"To guarantee the inviolability of the state borders, territory, air space and territorial waters of the GDR as well as the protection of the continental shelf and,

--"Through great fighting strength and constant combat readiness, to be ready and able at all times to fend off imperialist aggressions and to beat the enemy decisively." (Report of the SED Central Committee to the Ninth SED Congress; rapporteur; Comrade Erich Honecker, Dietz Verlag 1976, p 119.)

This mission reflects essential factors of the military policy of our party as part of its overall policy. At the same time, it is an expression of the efforts for the military protection of socialism coordinated with the fraternal parties of the Warsaw Pact.

It can and must be stated that great things have been accomplished for the peaceful life of peoples. In this, the Soviet Union and its armed forces, with which we are allied in firm brotherhood-in-arms, have made the decisive contribution. Always, from the first day of its existence, the Soviet Union has been the bulwark in the struggle for the peace of mankind. For us, too, the soldiers, officers and generals of the People's Army, the ideas of the Red October, the 60th anniversary of which falls this year, and the Decree Concerning Peace are a constant guide in the practical activity of political work. The NVA party organizations proceed from the constantly proved principle that to learn from the Soviet Union means to learn to be victorious.

For the Great Cause of Communism

The following words from the decision of the CPSU Central Committee concerning the 60th anniversary of the Great October Socialist Revolution express the heartfelt thoughts harbored by the NVA party organizations: "With heart and mind, the communists have served and are serving the people, which for the first time in history has erected a truly free society, the socialist society. They devote their every thought and effort, their mind, their heart's blood to the struggle for the triumph of the great cause of communism."

The decisions of the ninth party congress and the documents of political and military guidance issued on the basis of these documents determine the further aim, the standards and the paths of our work.

Looking back on the past training year, Comrade Army General Hoffmann, Politburo member and minister of national defense, was able to state: "Under the leadership of the SED, we have contributed to an all-round strengthening of our republic, to making the policy of peaceful coexistence prevail, to making detente the main trend of international relations in Europe, to insuring peace, and we have been able to live up to our obligation of providing dependable military protection for our country." (Hoffmann, H., "Wir verwirklichen die Beschlüsse des IX. Parteitag" [We Are Implementing the Decisions of the Ninth Party Congress], MILITÄRWESEN 1/1977, pp 3-4.)

In exercises and inspections, the formations and components have furnished proof of their fighting strength and combat readiness and have participated successfully in the troop exercise "Shield 76" carried out by several fraternal socialist armies.

More than 3,000 model young NVA members of the ground forces have been accepted into the ranks of the party of the working class.

In the air force/air defense it has been possible to award the distinction "Aircraft or Motor Vehicle of Excellent Quality" more than 1,200 times.

In the People's Navy, every second sailor has earned a military classification.

#### The NVA--an Instrument of the Working Class

In the process of the further realization of the decisions of the ninth party congress, the character of the NVA as a socialist army and instrument of the dictatorship of the proletariat will become further pronounced. On the basis of qualitatively new standards and requirements, fighting strength and combat readiness are being raised continually.

The development of our armed forces will be characterized by its progressive integration into the United Armed Forces of the member states of the Warsaw Pact, particularly by a deepening of the brotherhood-in-arms with the Soviet Army and the Soviet Navy.

There will be a further planned perfecting of weapons and weapons systems, other fighting technology and technological means of command and, in connection with that, of the technological processes in the use, maintenance and repair of military technology.

Historical experience in the development of the GDR socialist armed forces signifies that implementation of the leading role of the party is also the most important source of the fulfillment of any military task. To make this role even more pronounced requires, above all:

--to realize consistently the decisions of party congresses, of the Central Committee and its elected organs, and the strategy and tactics of the party;

--to educate NVA members and civilian employees in socialist patriotism and proletarian internationalism, love for the working people and loyalty to the communist ideals on the basis of Marxism-Leninism, friendship with the Soviet Union, military mastery, conscious discipline and revolutionary vigilance;

--to make prevail individual command, the unity of political and military leadership, as the supreme principle of socialist military leadership.

--to raise the effectiveness of the political organs as the leading party organs for implementing the party decisions and observing military regulations;

--to develop constantly the fighting strength of the basic organizations of the SED, and

--to insure the influence of the party on all aspects of political and military life, as well as to insure the exemplary effect of communists.

The "Instructions for the Leading Party Organs (Political Organs) and for the Party Organizations of the SED in the National People's Army and in the Border Troops of the German Democratic Republic" confirmed by the Politburo in December 1976, take into account the objective overall social demands and the objective military demands being made of the party's increasing role of leadership.

The Politburo decision concerning our party instructions expresses anew the decisive influence of the party leadership and particularly of SED Central Committee General Secretary Comrade Erich Honecker on the basic problems of development of the National People's Army.

Worked out on the basis of Chapter IX of our party statutes, the party instructions reveal the further increasing demands being made of the activity of political organs, party organizations and all communists in the fulfillment of the military class mission.

#### A Party Mobilized and Made Effective

This fundamental guiding document for the political work and the activity of the party organizations in the National People's Army stresses the fact that our party's increasing responsibility for the socialist armed forces primarily requires development of the fighting strength of its basic organizations. The heart of the party will beat in the basic organizations in the future as well. This is where the forces and initiatives are born which make it possible to move mountains and fulfill any task.

It is primarily in the basic organizations that members and candidate members are qualified and educated to become exemplars in political, military and personal life, to observe sound military discipline and order, to consolidate socialist relationships in the fighting collectives, to take an uncompromising stand of principle against defects in work. This is necessary, because the tasks confronting us require of every communist in our armed forces the greatest possible degree of revolutionary fighting spirit, acumen, readiness for action and persistence to enable him to constantly be a pacemaker in the struggle for great fighting strength and to mobilize the soldiers down to the last man.

Invariably strong and effective political motives are needed to enable communists to stand in the vanguard in combat training, to acquire great military technological knowledge and skills, to act to the limit of one's capacity during troop exercises, to sit many hours before the radar screen, as well as not only to last through a 50-kilometer march but to help the comrades to do likewise.

Marxist-Leninist steeling of communists is a decisive link in the chain. Particular attention must, therefore, be paid to their accomplishments in basic and advanced education in social science, in political training and to the results of deep long-term study of the materials of the ninth party congress and the documents of the Central Committee.

It is a basic concern of political-ideological work in the spirit of the requirements of the ninth party congress to develop further and consolidate among all communists, all NVA members and civilian employees quite definite convictions:

Socialism/communism, in accordance with objective laws, will be victorious the world over, and it is necessary to personally contribute to insuring its reliable military protection.

The role of the working class and its party is growing further, and the effectiveness of every communist must increase constantly in the sphere of national defense, as well.

With its fight for insuring socialism and peace, the NVA is fulfilling the revolutionary and humanistic mission of the working class as the strongest and most progressive class of our era.

The consolidation and deepening of the fraternal alliance with the Soviet Union and the other socialist states is an inseparable part of our socialist development, and the class and fighting alliance with the Soviet Army and all fraternal armies is a matter close to the heart of every NVA member.

The intrinsic aggressiveness of imperialism, the danger it poses and its lack of perspective reveal themselves in a class confrontation, being conducted with unmitigated strength, which demands the greatest vigilance and combat readiness of every socialist soldier.

These convictions form the basis of understanding the great demands being made of the NVA's fighting strength and combat readiness. The results achieved are reflected in correctly understanding the fact that the policy of peaceful coexistence and the struggle for great fighting strength and combat readiness form an inseparable whole, that our time of class confrontation between socialism and imperialism requires great political and military vigilance and that the sights must be set constantly on the class enemy.

To an increasing extent this process of education and training is assisted by those political points of view which are already imparted to youth in the most varied spheres of life in our republic before military service. The strengthening and sure protection of socialism as a decisive answer to all imperialist machinations is a problem equally affecting all spheres of our republic.

Time and again it is a pleasure to see the elan with which the newly accepted members and candidate members of the party are proving themselves in unaccustomed military conditions at the head of NVA members and civilian employees. Every single word which has been uttered in their labor collectives, in their party or FDJ organizations, for the all-round strengthening of socialism is proving extremely valuable and is having a direct effect on the development of the fighting strength of their military collectives.

This is the finest reward for the many efforts of the basic party organizations, in the most varied spheres of our life, with which they prepare their young people for military service.

In the NVA the basic party organizations, in implementing the party's decisions, direct their efforts toward educating communists in a trusting party atmosphere to fulfill their duties in an exemplary military manner. It is not easy to gain a high level of mastery in this. It is managed best wherever questions of combat readiness and military life as a whole determine the content of party work and throughout are handled as essentially political problems.

#### For Conscious Action and Thought

Party work for fulfilling military tasks always has the development of conscious action, conscious thought on the part of every member and every candidate member as its main content.

The 1977 party elections in the NVA are, therefore, directed toward further consolidating the party's basic organizations ideologically and organizationally, toward rendering them direct aid in the creative realization of the party decisions through the political organs and toward fully implementing the Leninist norms of party life.

This is an important step in our socialist competition "Fighting Course 77--Ever Vigilant, With Fighting Strength and Combat Ready" in honor of the 60th anniversary of the Great October Socialist Revolution.

The communists in the NVA know that their serving as exemplars in fulfilling the political and military tasks lends decisive impetus to the party's ability to affect all NVA members and civilian employees.

This year's NVA anniversary was for us soldiers, noncommissioned officers, ensigns, officers, generals and civilian employees anew an occasion for promising solemnly to do everything possible to provide dependable military protection to the historic achievements of the political rule of the working class and the class of cooperative farmers in our country.

8790

CSO: 2300



GDR-FRG YOUTH EMPLOYMENT PROBLEMS COMPARED

Cologne DEUTSCHLAND-ARCHIV in German Vol 10 No 2, Feb 77 signed to press  
25 Jan 77 pp 174-179

[Article by Walter Jaide: "Youth Unemployment--Not in the GDR?"]

[Text] In discussions about youth unemployment in the Federal Republic of Germany it has repeatedly been pointed out that there does not appear to be any youth unemployment in the GDR, or at least that it is not possible to prove its presence there.

Since 1975 the Federal Institute for Labor<sup>1</sup> of the Federal Republic has registered and looked after from 86,000-115,000 juvenile unemployed below the age of 20. The latest report available accounted for 83,000 in May 1976. The proportions seem to remain pretty constant: About 8 percent juvenile foreigners, 7 percent disabled, 30 percent school dropouts, 60 percent unskilled. That is to say unemployment has much more serious effects and lasts longer for those juveniles whom it has always been difficult to counsel and place, and who have always been at greater risk of losing their jobs compared to normal school graduates who either want to train for skills or have acquired them already.

The reports for 1975 stated that 330,000 juveniles had been placed in apprenticeships after graduation from the upper classes of elementary school, 2,500 failed to obtain a placement. In 1976 the latter figure amounted to 5,000, while 303,000 juveniles were placed in apprenticeships by the vocational counseling service.

No comparable data are available for the GDR. If we accept this difference at face value, the following explanations seem to offer themselves:

No "Student Bulge"

1. The GDR does not have a comparable "student bulge." In the Federal Republic the respective age group of juveniles, from 15-20 years, increased from 4.1 million in 1971 to 4.5 million now and, by 1980, will amount to some 5 million. Set against the unemployment figures this means that even

during the recession more than 4 million young people made their way in schools, advanced schools, vocational training, professions or as wives and mothers not gainfully employed, while 0.1 million were temporarily unemployed.

The total GDR figures for young people from 15-20 years of age are as follows: 1.313 million (1971) to 1.328 million (1975) and 1.41 million (1980). The increase within the respective age group therefore amounted to only 15,700 from 1971-1975, compared to some 400,000 in the Federal Republic. If we confine ourselves to the 16-17 year olds as the group of those knocking on the door of further education, their numbers in the GDR rose from 1971-1975 (after an initial drop) by only 11,600 compared to 123,000 in the Federal Republic. The demographic curve in the GDR is thus shown to have been much flatter and, for that reason, did not present any problems. Corresponding to the decline in the child population (since 1974) the juvenile population (15-20) will show a considerable drop after 1980--just as in the Federal Republic.<sup>2</sup>

#### Occupational Direction Instead of Vocational Counseling

2. Occupational counseling as practiced in the GDR up to now is not really comparable to vocational counseling in the Federal Republic. In the FRG laws and directives<sup>3</sup> have provided vocational counseling with a public-law status and independent administration, a broad-based institutionalization and some 50 years of practice in the issue of unbiased and independent information, individual counseling, voluntary placement and encouragement for everyone. Counselors act as intermediaries between the individual and the educational system for some three fifths of school graduates (in addition to younger or older clients).<sup>4</sup>

Enterprises, cooperatives, authorities, and so on in the GDR must, in conformity with central plan targets and assisted and supervised by the "organs for vocational education and counseling" at the bezirk and kreis councils, advise the schools, complete with data, of their respective short-term rather than medium-term, local rather than regional manpower and manpower replacement planning.

All advisory measures and recommendations of schools and enterprises, the labor union and youth organization are guided by these plans. The students may--initially by their own choice--apply for jobs at enterprises in accordance with the plan lists and, if hired, must send a form card confirming the appointment, to the competent organs/departments for vocational education and counseling.<sup>5</sup> This distributional procedure is unlikely to permit many apprenticeship places to remain unfilled.

In 1975 and 1976 some 20,000 each apprenticeship places notified to the vocational counseling service of the Federal Republic remained unfilled. If, on the basis of the impressions and experiences of those involved, we add estimates of other unfilled apprenticeships, especially in long unpopular occupations such as construction and construction ancillary trades, catering,

and so on, which are rarely even reported to the vocational counseling services, the figure is likely to be twice as high. Numerically this would correspond to about half the currently registered juvenile unemployed. On the other hand, after completion of their compulsory schooling some 20,000 juveniles were placed in approximately 500 training courses of various kinds by many different agencies (associations, firms, vocational schools), and two thirds of them passed from these training courses into apprenticeships.

The GDR favors outside orientation for the vocational advice given to students. This is further buttressed by early orientation and practical exercises during schooling, playing down personal preference for certain types of jobs and encouraging "appreciation of the necessities." All the same the authorities have failed to narrow the discrepancy between the students vocational preferences and the job offers of the enterprises, have failed to achieve the desired socialist attitude in the majority of students and confine to a minimum the hesitations and qualms of students and parents.<sup>6</sup> GDR authors estimate that difficulties arise with respect to about a third of school leavers. In some of them such difficulties may result in long-term adjustment problems: Dissatisfaction, absenteeism, moonlighting, dropping out of apprenticeships, job changes, and so on. If these temporarily dropped out juveniles were to be statistically counted on any specific day, the figure for "unemployed" juveniles would probably turn out to be quite substantial.

#### More Occupational Changes in the GDR

3. The freedom of occupational choice in the FRG does mean that some jobs remain unfilled and some juveniles are temporarily neither in training nor at work--it also includes the change of occupation, profession and job or employment to less skilled jobs even after completion of apprenticeship. However, the proportion of such "changers" is lower in the Federal Republic than in the GDR.<sup>7</sup> The greater rate of fluctuation in the GDR is probably due to the earlier mentioned pressure to choose certain professions: Changes are more frequent especially after completion of training for a job not initially preferred, for a boring job without further training potential, in the case of girls after training for a technical job, and for college graduates (especially women).<sup>8</sup> As the GDR officially frowns on these fluctuations, changes or employment in less skilled work are obviously delayed if not forbidden; that is another reason why obvious youth unemployment can be avoided. We are able to estimate how badly job satisfaction and productivity are thereby affected, because we have some relevant studies to hand.<sup>9</sup> Young people in the Federal Republic tend to describe themselves as "satisfied" to a far greater extent than their counterparts in the GDR.

#### Shorter Training

4. Apprenticeship places in the GDR have a far more rapid "turnover" because, as a rule, apprenticeship training lasts 2 years only (compared to 3 years here). One must, however, take into consideration the 10 years of compulsory

schooling which supply some vocational training as well as the--at least intended--compression and standardization of the relatively few specialized curriculums for vocational training.<sup>10</sup> In any case, it does make a difference whether apprenticeship places are turned over 3 times rather than twice every 6 years.

#### Training Less Expensive

5. Earned incomes of employees in the GDR are considerably lower than here; in terms of purchasing power they amount to about 55 percent of comparable incomes in the Federal Republic of Germany.<sup>11</sup> Manpower, therefore, is cheaper; continued employment and manpower hoarding, despite less output, less expensive than here, and unemployment can thus be more easily hidden. Manpower hoarding is also considered useful because it facilitates plan fulfillment or overfulfillment and the consequent award of bonuses. It also permits the enterprises to cover losses by the "delegation" of employees to other jobs or training course. By contrast the high real wages in sectors and systems which are able to afford them (such as the Federal Republic) frequently entail "systematic" layoffs and fluctuations for adults.

Corresponding to the general standard of living in the GDR wages for apprentices are also substantially lower; they amount to M90-150 (with bonuses of up to M200) per month, compared to DM300-900 per month here. Not only do young workers and apprentices receive less wages; the expenditure for training and further education personnel is also substantially lower than the corresponding public expenditure in the Federal Republic. The earnings of teachers and instructors are less than half of comparable earnings here.<sup>12</sup> Although such salaries account for only part of the cost of professional training, in general training is likely to cost less in the GDR.

#### Lower Productivity

6. Productivity in the GDR, that is the net value of output per employee, is on the average only 68 percent of that in West Germany. Since 1968 the difference has never been made up; on the contrary the gap widened further in 1975.<sup>13</sup> In round figures one third more employees are needed in the GDR to turn out the same product. That is another factor contributing to the lack of statistically obvious unemployment in the GDR, and that holds true although productivity has risen substantially in both German states ever since 1960. The backwardness of GDR productivity is due to lower capital intensity--compared to the Federal Republic the difference is about 20 percent. This involves the provision of facilities, machinery, means of transport, and so on. On top of all that, whatever equipment there is, is less used or utilized. In addition the labor intensive sectors of the GDR economy (construction industry, transportation, services) especially suffer from a great deal of backwardness, and farming--with productivity considerably lower than in West Germany--ties up 11 percent of all manpower, a rate which is far too high for a modern industrial country. Too little or inadequate mechanization as well as

the seasonal dependence of these sectors and also (still) dependence on regional locations as far as the manpower on offer is concerned,--all these result in less than rational personnel policies.<sup>14</sup>

Furthermore productivity is adversely affected by excessive fluctuation (10 percent per annum) for which various reasons are quoted: Payment, atmosphere in the plant, shift work, concern about health factors, difficulty of the work, old-fashioned working conditions and labor organization, too little responsibility or uninteresting work and inadequate training opportunities, undesired occupation (see above), housing conditions.

Productivity also suffers from a relatively high incidence of sickness. In 1974, for example, 5.9 percent of working days were lost as a result of sickness ("Statistisches Jahrbuch der DDR, 1974" [1974 GDR Statistical Yearbook], p 385).

There are constant official references to the improvement of labor discipline, something which seems to indicate a certain listlessness of the working people--reflected after all in job changes and sickness also. This may be due to jobs which frequently do not correspond to the standard of skills (that is either requiring too little or too much skill), frequent transfers to undesirable occupations, relatively short-term redistribution of manpower in different directions (technological growth sectors--energy industry--services), the unsatisfactory level of wages (see above) and wage differentials (frequently the more highly skilled workers actually earn less than the semi-skilled), and unsatisfactory supplies of consumer goods.

The pressure of neither a free labor market nor a free commodity market (prices) causes let alone compels enterprises to use manpower or man hours more rationally. To this must be added many defects in the proportioning and coordination among the fields of occupation (energy--production--commerce--transportation--services) and enterprises.

#### Utilization of the Manpower Potential

7. Consonant with this system and structure-related manpower need is the proportion of persons gainfully employed (that is the figure for persons gainfully employed per 100 residents). In the GDR this rate was about 52 percent (unofficial estimates are even higher), and by 1980 is supposed to rise to 58 percent. The rate of utilization (actual gainful activity per 100 employable persons, that is persons 15-60/65 years old including employable pensioners) is around 83 percent and, by 1980, is to achieve 85 percent. In view of the fact that the population and therefore the employable population declined slightly from 1960-1974, the rise in actually employed persons 7.9 million to 8.3 million is due to employable women, 77 percent of whom were gainfully employed (although not all of them full-time) in 1974. Another rise in their number by 5 percent as well as an increase in the ranks of women working full time is considered possible. Some 600,000 pensioners are

gainfully employed (especially in the first 5 years after they reach the official retirement age), and they account for every third male and every sixth female retiree. The authorities would like this proportion to increase so as to include every third pensioner. As pensions in the GDR are about two thirds lower than in the Federal Republic, the incentive is certainly there. As many as 80 percent of the severely disabled, amputees and invalids are employed. In this context one should also mention that apprentices in their last 6 months of apprenticeship are expected to put in a full day's normal work.<sup>15</sup>

On the other hand the GDR so far employs few foreign workers (some 40,000-50,000, mainly from Hungary and Poland); their share of total employees amounts to only .6 percent compared to some 7 percent in the Federal Republic of Germany.

Prospects are fair for the urgently needed rise in gainfully employed persons (by about .6 million) due to the entry of relatively many young people into working life and the decline in pensioners. The respective shifts in ratios by the diminution of the "pensioner bulge" and the increase and decrease in the numbers of children and juveniles are illustrated in the following table:

	1975	1980	1990
Children under 14/15 years	20.7%	18.3%	17.6%
Juveniles (15-20 years)			
including 5/12 of the			
14-15 year olds	8.6%	9.1%	6.4%
Employable population	59.7%	63.6%	67.0%
Pensioners	19.6%	17.8%	15.4%

From 1990 on the ratios will probably stabilize and stagnate. In addition one must reckon with the slight legal emigration of employable citizens and juveniles from the GDR to the Federal Republic, which began in 1972 after the conclusion of the basic treaty.

#### Numerus Clausus

8. The GDR also imposes restrictions on college admissions. Taken into consideration are not only the scholastic achievements of applicants but also their social and political activism and their social background.

In the 1974/1975 school year 30,000 freshmen entered universities and advanced schools; 4,000 applicants were refused. There also quantitative discrepancies occur between the disciplines chosen and offered.

In view of this fact we will have to decide whether it is better--for the time being--to suffer obvious unemployment even of juveniles in moderate proportions and of a temporary nature, before making any educational and

economic changes. Or whether it is preferable to have "hidden" unemployment within the framework of a lower standard of living accompanied by control and planning as well as the greatest use of all manpower reserves--in a system which must avoid unemployment for ideological reasons and, if necessary, is able to take the appropriate steps.

#### FOOTNOTES

1. See Federal Institute for Labor, "Census and Critical Analysis as Well as Proposals for Measures for Reducing Juvenile Unemployment and Improving the Situation on the Vocational Training Market," Nuremberg, 29 January 1975; Federal Institute for Labor, PRESSEINFORMATIONEN No 48/1975, 5 August 1975; "On the Situation of Juvenile Unemployment. Results of a Special Study in Late May 1975," in AMTLICHE NACHRICHTEN of the Federal Institute for Labor, No 10/1975; Federal Institute for Labor, PRESSEINFORMATIONEN No 70/1975, 4 December 1975; Federal Institute for Labor, "Unemployed Juveniles. Survey and Figures," 4 February 1976; Federal Institute for Labor, PRESSEINFORMATIONEN No 39/ 1976, 22 July 1976; Structural analysis of the unemployed. Results of the special study of May 1976; estimated figures of unknown cases cannot be included in a general survey.
2. See DIW-WOCHENBERICHT No 23/1976, "Likely Development of Population and Employment in the GDR to 1990;" "Statistisches Jahrbuch fuer die Bundesrepublik Deutschland 1973" [Statistical Yearbook 1973 for the Federal Republic of Germany], p 45; 1975, p 58; 1972 GDR Statistical Yearbook, p 437; 1974, p 417; 1975, pp 330, 389.
3. On the interesting, albeit neglected, science of demography see G. Mackenroth, "Bevoelkerungslehre" [Demography], Berlin 1953; K.M. Bolte and others, "Beruf und Gesellschaft in Deutschland" [Profession and Society in Germany], Opladen 1970. See Constitution of the Federal Republic of Germany (1949)--Labor Promotion Law (1969)--Vocational Training Law (1969)--Federal Vocational Promotion Law (1971). In addition there are the instructions issued by the administrative board of the Federal Institute for Labor including the respective implementing instructions--directives and instructions for vocational counseling--outline agreements on cooperation with other institutions--as well as recommendations of international organizations.
4. See "Berufsberatung 1973/1974. Ergebnisse der Berufsberatungsstatistik" [Vocational Counseling 1973/1974. Results of Vocational Counseling Statistics], published by Federal Institute for Labor, Nuremberg, October 1975; as before 1974/1975. Of course vocational counseling in the Federal Republic of Germany suffers from defects--just as any other large organization--and in practice frequently fails in its aim of providing early, varied and intelligible professional advice and counsel tailored to individual prospects and the educational potential, so as to offer a satisfactory compromise. The Federal Institute for Labor has long endeavored to remove these defects by better training of counselors, generously making available suitable data, studies and so on.

5. See B. Hille, "Occupational Choice and Occupational Guidance in the GDR," in KOELNER ZEITSCHRIFT FUER SOZIOLOGIE UND SOZIALPSYCHOLOGIE [Cologne Journal of Sociology and Social Psychology] 1975, No 3, pp 411-435. Council of Minister's Decree on Vocational Counseling of 15 April 1970.
6. See W. Kuhrt, G. Schneider, "Erziehung zur Bewussten Berufswahl" [Education to Conscious Choice of Occupation], East Berlin 1971; W. Kuhrt, H. Deubler, "Preparation for Choice of Occupation in the Socialist Countries," Part 2, in VERGLEICHENDE PAEDAGOGIK [Comparative Pedagogy], 1974, No 4. See also B. Hille as before (note 5); A. Kruppa, "Wirtschafts- und Bildungsplanung in der DDR" [Economic and Educational Planning in the GDR], Hamburg 1976.
7. See H. Hofbauer, H. Kraft, "Enterprise Vocational Training and Gainful Employment. Job and Occupational Changes Among Gainfully Employed Males After Completion of Enterprise Occupational Training," in MITTEILUNGEN AUS DER ARBEITSMARKT- UND BERUFSFORSCHUNG [Informations from Labor Market and Professional Research], Stuttgart 1973, #1; R. Ermrich, "Basisdaten-Zahlen zur Sozio-Oekonomischen Entwicklung der Bundesrepublik Deutschland" [Basic Data--Figures on the Socioeconomic Development of the Federal Republic of Germany], Bonn-Bad Godesberg, 1974.
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## POLAND

### DEVELOPMENT OF POLISH NAVY OUTLINED

Frankfurt/Main SOLDAT UND TECHNIK in German No 3, Mar 77 pp 138-144

[Text] The navy is presumably intentionally the weakest part of the total Polish Armed Forces: In contrast to the roughly 200,000 men of the army and the 56,000 members of the air force, it can show only 25,000 men. This level is not very high if one compares the length of Poland's coast which it must patrol today with that of 1939. Poland, lying in the broad level plain on the boundary between central and eastern Europe, has, like Germany, no natural frontiers; in the past its rivers did not represent obstacles which had to be taken very seriously. It is therefore no wonder that in past centuries armies marched over this country again and again, from west to east, from east to west, according to the direction in which the pendulum of power politics was swinging at the moment. Thus Poland in the last 2 centuries was partitioned and reshaped 5 times, but always remained a continental state because access to the sea remained barred to it due to its geographic position. Not until 1919, after the end of World War I, did it get that far: Through the creation of the Polish Corridor--at the expense of Germany--such access was created. Thenceforth Poland--which up to then had been offered no access to the sea--had a 70-kilometer-long base on the Bay of Danzig. Danzig itself with its surrounding area received from the victorious powers the status of a free state and was at the same time forced into a customs union with Poland. In the twenties a great harbor city, the present Gdynia, emerged from the once small fishing village of Gdingen in the northernmost part of the "Corridor". The Poles very quickly learned to make the sea useful, first by fisheries and later by trade. To protect both and to secure the newly gained coastal base, a navy was forthwith established, while on the coast itself a series of fortifications were built. Poland was aided primarily by France. In the late twenties destroyers and submarines were built there for its navy. Soon the demands of the Polish Navy leadership began to grow; despite the very modest development base the latter insisted on a considerable strengthening of the fleet. Its construction program was, of course, possible only over the long term. But before it could seriously begin, World War II broke out in 1939. At this point the Polish Navy had available as modern units four destroyers, one minelayer, six submarines and a few minesweepers. Before the outbreak

of hostilities three destroyers went to England where they were then included in the British fleet. What remained was either destroyed or captured by the Germany Navy, with the exception of three submarines which were able to escape to Sweden and were interned there. Two other submarines were able to make it to England and likewise joined the Royal Navy. In the succeeding war years a series of units were made available on a loan basis and manned by several thousand exiled Poles; in cooperation with the British fleet they achieved a series of successes against German naval forces. After the end of World War II the boundaries of the new Poland were established, again at the expense of Germany (and to a much worse extent than in 1919), but also with heavy sacrifices of its own, for the former eastern Poland was simultaneously and similarly annexed by the Soviet Union without plebiscite. Poland was thus pushed considerably toward the west. It thereby gained back not only the access to the sea assigned to it in 1919, but was able to expand this share considerably: Thenceforth its own coast extended from the former Braunsberg on the Frisches Haff to Swinemuende, the present Polish Swinoujscie. It measures 425 kilometers in length or six times as long as before. Poland thereby received a valuable strategic maritime position on the south coast of the Baltic Sea. Ship construction, navigation, and fisheries quickly grew in scope there in the postwar years, and respectable achievements were recorded. Polish ship construction, for example, enjoys a particularly good reputation.

#### The Military-Political Base

If one wishes to reach a judgment concerning the Polish Navy of today, a number of factors have to be taken into account:

--Poland is politically, economically, and militarily a part of the "East Bloc" and is thereby directed and influenced in its goals by the Soviet Union.

--Militarily Poland is integrated in the Warsaw Pact and has tasks in the framework of a strategy determined by Moscow and received from the operating objectives of this pact system.

--In the military-geographic sense Poland is a borderland between Western Europe and the Soviet Union, therefore between NATO and the Warsaw Pact. As a deployment area and base for operations against the West it can play an eminently important role.

--This is true just as well for operations on the sea. The Polish harbors are well suited to the Warsaw Pact naval forces as advanced bases, and from them rapid, massive attacks can be conducted against ship traffic in the central Baltic. Furthermore, amphibious operations can also be undertaken from there, for example against the accesses to the Baltic and against Schleswig-Holstein. At the same time the coast itself and its nearby hinterland offer good positions for fixed or mobile missile-weapons systems for use against ship targets and for reconnaissance installations.

--The protection of the coast itself is no less important, for it, like the Polish harbors, is very open to attacks from the sea; this is true also for important sea transports of the Warsaw Pact states in the southeastern Baltic.

--Among the Baltic naval forces of the Warsaw Pact is the Soviet Baltic Fleet --the strength of which is growing continually--the absolutely dominant partner which sets the tone.

It is apparently these criteria which have led in the past few years to a renovation of equipment in the Polish Navy. The obsolescence of many units was also doubtless a contributing factor. While previously a greater worth was set on the destroyer, the emphasis has now been placed on PT-boats and still more on amphibious units. Submarines and antisubmarine equipment appear to have retreated to the background in the development of the Polish Navy. It is still, of course, Soviet ship types which represent the nucleus of the Polish fleet, but the number of those types which were developed in Poland itself is steadily rising. Their quality is evidently good; this is clear from the fact that Poland is the only Eastern Bloc state which has been building warships for the Soviet fleet--landing and transport ships--and for more than a decade, too.

#### The Ship Component of the Fleet

Today the Polish Navy has only one single destroyer. It is the former Soviet "Spravedlivyy," now the Polish "Warszawa," a representative of the "Kotlin-SAM" class equipped with ship-to-air missiles, guns and antisubmarine weapons. Taken over in 1970, it remains the only ship of this class which is represented in the Polish Navy. There is no indication that this will change in the foreseeable future.

Both of the destroyers taken over in 1957 or 1958, the "Smetlivyy" and "Skoryy" of the Soviet "Skoryy" class--Polish "Grom" and "Wicher"--have not been in active service since 1975. Both are still of course available, but only have the status of floating batteries for harbor defense.

The destroyer "Blyscawica" was separated out in 1974: with it the last ship of the Polish 1939 fleet was decommissioned. Now one may visit it in the harbor of Gdynia as a floating museum. Previously the still older destroyer "Burza" lay there for many years, also as a museum ship, but it has since been broken up. A report bruited about several years ago that the Polish Navy would be fitted out with frigates of the Soviet "Mirka" class has thus far not been confirmed. On several grounds it does not seem probable that it will come about.

The submarine component still consists of four units of the Soviet "Whiskey" class; thus no subsequent increase has occurred. The Polish submarine component is probably more intended for use in tactical training than in operations. Probably the Soviet Union attaches importance to the Polish Navy

having its own submarines in order that it itself may gain practical experience in submarine operations, antisubmarine warfare, and in cooperation between surface units and submarines, and to strengthen these units.

The eight submarine chasers of the Soviet "Kronstadt" class have in the meantime likewise disappeared--in 1973 six of them were decommissioned and the rest in 1974. Up to now they have not been replaced.

The speedboat component is not very numerous, but hard-hitting enough. It consists of a dozen units of the "Osa" and "Wisla" class--the first is of Soviet origin and is equipped with antiship missiles, the other developed in Poland and conceived as torpedo boats. In addition there are about six old "P-6" boats, which appear to serve, however, only as target vessels, two of them with radar reflectors and known in NATO as the "P-6(T)" class.

The patrol boats are used as submarine chasers. There are 26 of them and they were built in the sixties. Basically they correspond, at least the first two classes, to the German R-boats of World War II. (After the end of the war Poland received from the Soviet Union some R-boats captured from German stocks.) These boats belong to the "Gdansk," "Oksywie" and "Obluze" classes. The first two of these classes were modernized at the beginning of the seventies when they received new radar equipment.

Of later date are the sentinel boats of the "Pilica" class built in Gdansk and conceived for coastal use, numbering five. With their operating displacement of something over 100 tons and dimensions of hardly 30 meters length, 6 meters width, and 1.5 meters draft, they attain a maximum speed of about 15 knots. As armament they have one 25-millimeter twin antiaircraft gun of Soviet standard model on board, but no antisubmarine weapons. They appear possibly to be capable of minesweeping; perhaps this "Pilica" class represents the successor of the obsolete "K-8" boats.

Newly recognized is a still smaller type of sentinel boats, called the "Wisloka" class. About 22 meters long and certainly below 100 tons, these vessels have only one 14.5 millimeter twin antiaircraft machinegun but no antisubmarine weapons. Apparently it is a type used exclusively for guarding shore areas, harbor entrances, and perhaps also river mouths.

Forty-four antimine vessels are available: 12 belong to the "Krogulec" and the Soviet "T-43" classes and are suited for the open sea, the rest (primarily consisting of boats of the "K-8" class) have only local significance, for these units are specifically shallow water vessels. All were built in Poland, including the "T-43" units. A modern "minehunt" is not possible with any of these vessels.

It is furthermore striking that the Polish Navy evidently possesses hardly any mine-laying potential of its own. A number of units can, of course, carry mines and drop them, but their total capacity is sufficient only for

the smallest mine field. It is conceivable that the Soviet Navy has reserved the larger mine field to itself, since it doubtless has to take into account that these mine fields could also hinder its own operations.

The Polish Navy is evidently to fulfill an important task in another way: This is particularly indicated by the relatively large number of landing craft. At present it possesses 23 landing ships of the "Polnochnyy" class, a type which has been built since the early sixties in larger numbers in domestic yards for the Soviet Navy. If one takes as a basis the fact that each of these 23 ships can carry eight tanks, one can well estimate their first-strike capability--a whole tank regiment is included in it. This is doubtless an indication to be taken seriously of what an important assignment is contemplated for the Polish Navy in amphibious warfare.

Along with these "Polnochnyy" ships the Polish Navy further has a number of so-called "landing-cutter," of which 15 are of a new type, known in NATO as the "Marabut" class. They are about 21 meters long and run at a good 10 knots. In front of the bridge is the hold, closed by a sliding hatch, which is accessible over a folding bow ramp. On the deckhouse the revolving turret of the Czechoslovak "OT-64" armored personnel carrier ("D" version) used by the Polish land forces is mounted, carrying one 14.5-millimeter and one 7.62-millimeter machinegun. These vessels are without question suited only to use in the immediate proximity of the coast; it is therefore conceivable that they would be brought in also for commando enterprises. Their load capacity is of course limited, but should be adequate for the tasks envisaged for them.

In the field of auxiliary and special ships there are some new developments of sufficient interest to be treated briefly here. A new salvage ship may be mentioned, called "Lech," in service since 30 November 1974, a sister ship of the "Piasz" delivered just previously (see volume 7/74, p 383). Both ships are unarmed, but seem to be equipped to receive four 25-millimeter twin antiaircraft guns of Soviet origin. New fuel supply ships have also been built and are registered in the international fleet handbooks as the "Moskit" class. For these ships, which are estimated to be about 58 meters long, the French fleet handbook "Flottes de Combat 1976" gives a displacement of 300 tons, while "Jane's Fighting Ships 1976-1977" gives 700 tons, an order of magnitude which seems somewhat more likely than the first. Noteworthy on these units is the presence of an armament consisting of two 25-millimeter twin antiaircraft guns, one forward, the other aft. The number of units of this class is also disputed. "Flottes de Combat 1976" gives five units and even gives their designations: "Z-5", "Z-6" etc. to "Z-9" ("Z-8" alone among them is verified with a picture). According to "Jane's Fighting Ships 1976-77" there are only three units, and their names are said to be "Krab" (Z-3), "Medusa" (Z-8) and "Slimak" (Z-9).

The French handbook names a repair ship besides. This must be a reconverted "Polnochnyy," i.e. a former landing ship. This report appears quite credible since a landing ship, like hardly any other type of warship provides sufficient space to house the required workshops, spare parts stores, and so forth.

Of more recent construction date is the "Navigator," a training and research ship put into service in June 1975, presumably based on the "Moma" class and therefore designated in NATO as the "Moma-mod" class. Its length is estimated at 73 meters, therefore, about 6 meters longer than the "Moma" class. Based on that one can assume a displacement of 1,300 tons (Standard) or 1,800 tons (operations). There is no armament on board. Characteristic of this "Moma-mod" class are the two slender, close basket masts and the two radar dishes.

Finally, attention should be called to several new training vessels. Three units of the "Briz" class were put into service one after the other for cadet training—"Podchorazy" on 30 November 1974, "Elev" on 5 March 1975, and "Kadet" in July 1975. They are, of course, very small vessels, but appear nevertheless to have exceptionally good sea qualities. Their standard displacement is given by Polish professional organs as exactly 146.6 tons, the dimensions as 28.8 meters length, 6.8 meters width, and 1.8 meters draft. Two diesel engines combined deliver 300 horsepower, with which a speed of up to 10 knots can be attained. The basic crew consists of 11 men, to which are added up to 26 cadets.

The newest training ship is the "Wodnik," delivered in 1976. In this case also Polish sources themselves gave out the data: this roughly 2,000-ton-displacement ship is 73 meters long and 12 meters wide and attains a speed of 17 knots. According to these reports, the crew consists of 100 men. It is supposedly equipped with "the latest technical equipment and electronic and navigational devices." A photo of the "Wodik" published at the same time gives the impression that it developed from a "Moma-mod" hull; this impression is enhanced by the almost identical dimensions. The "Wodik" also possesses an armament: two 30-millimeter twin antiaircraft guns (one each at the bow and stern), and two 25-millimeter twin antiaircraft guns at the same height alongside one another behind the long deckhouse. A drum-tilt fire-control apparatus is located on the high four-legged basket mast. The long, two-story deckhouse seems to contain mainly instruction rooms. They evidently did not want to crowd the deck space, for that it is only way to view the fact that they moved the furnace gas outlets to the sides, as the two side-by-side smokestacks make clear. Of the same type, moreover, is the training ship "Wilhelm Pieck" of the GDR "People's Navy," which was put into service on 6 July 1976 and which was also built in Poland.

#### The Polish Navy: Auxiliary Organ of the Baltic Fleet

If one wanted to sum up the Polish Navy of today, one would come to the following conclusion: Its main task seems to be the defense of its own coast and the protection of coastal sea transportation. In addition, it apparently is to participate in offensive amphibious operations of the Soviet Baltic Fleet. Basically the Polish Navy is oriented, according to its structure and organization, toward cooperation with Soviet fleet units in the Baltic. Therefore, it must be virtually certain that the Soviet

Baltic Fleet will also use Polish bases; in this event the Polish naval forces must fulfill a series of support functions in order to assure the operational freedom of the Soviet Baltic Fleet. While no information is, of course, available to us concerning the future intentions and construction program of the Polish Navy, one can still assume that those categories of equipment which have been pushed the most in past years will continue to grow.

### The Polish Navy--A General View

#### Leadership

High Command: Vice Admiral Ludovik Janczszyn  
Chief of Staff: Rear Admiral Henryk Piertraszkiewicz

#### Bases

Gdynia (Main base), Hela, Swinemuende

#### Personnel Strength

2,800 officers and 22,200 non-commissioned officers and men

#### Fleet Strength

1 Guided Missile Destroyer: "Warszawa" (Soviet "Kotlin-SAM" class)  
4 submarines: "Bielik," "Kondon," "Orzel," "Sokol" (Soviet "Whiskey" class)  
12 Guided Missile Speedboats (Soviet "Osa" class)  
12 fast torpedo boats (Polish "Wisla" class)  
6 fast torpedo boats (Soviet "P-6" class)  
12 minesweepers (Polish "Krogulek" class)  
12 minesweepers (Soviet "T-43" class)  
20 minesweepers (Soviet "T-8" class)  
13 patrol boats (Polish "Obluze" class)  
4 patrol boats (Polish "Okseywie" class)  
9 patrol boats (Polish "Gdansk" class)  
5 patrol boats (Polish "Pilica" class and several others of the "Wisloka" class)  
23 landing ships (Soviet "Polnochnyy" class)  
15 landing craft (Polish "Marabut" class) and several others of an older type  
3 research vessels  
6 training ships  
2 salvage ships  
6 supply ships

#### Naval Aviation

3 fighter-bomber squadrons with 35 MiG-17



1 bomber and reconnaissance squadron with 10 Il-28  
2 helicopter squadrons with 20 Mi-2, Mi-4, and Mi-8 and in addition some  
training aircraft with Yak-11 and MiG-15 UTI

#### Merchant Fleet

696 ships totalling 2,817,129 gross register tons.

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CSO: 2300

LEADERSHIP APPEARS DISUNITED OVER OPPONENTS ISSUE

Frankfurt/Main FRANKFURTER ALLGEMEINE in German 7 Mar 77 p 2

[Article signed "ba": "Warsaw Leadership Disunited in Assessing Opponents"]

[Text] After growing stronger in recent weeks the impression of progressive internal relaxation in Poland now seems to be rather more questionable: Last weekend some collaborators of the "Committee for the Defense of the Workers" were arrested in Warsaw. On earlier occasions there had been several such arrests for the purpose of the interrogation of members or collaborators of the committee--arrests which, up to a length of 48 hours, do not require a court order. Lately, however, the arrests had stopped--since the announcement of the intention to extend clemency to some of those sentenced after the June rebellions weakened the arguments of the committee which is composed of dissident intellectuals of various convictions, thereby also weakening its effectiveness. The news of renewed activity by the security organs against committee collaborators sharply contrasts with the impression given by last weekend's issue of the party newspaper TRYBUNA LUDU regarding a meeting between party chief Gierek and journalists, a report which accorded with the earlier signals: That, because of its relative insignificance, the state and party apparatus would in future ignore the intellectual opposition in Poland. The report of the meeting which took place in late February, quotes statements by Gierek indicating that the oppositional tendencies in Poland should not be overestimated. According to the quotes in TRYBUNA LUDU the party chief obviously intended to oppose the opinion that something like an opposition movement of a new quality had emerged in Poland, going beyond the extent of opposition normal for that country, and that the enthusiasm of that opposition and its possible progress might represent a danger to the ruling system, requiring energetic countermeasures.

Gierek used conspicuously mild terms, describing the opposition as "people who dislike socialism and express their opinions from an antisocialist standpoint." The term "enemies" is avoided. They were not numerous, said Gierek, "in all the 32 years it has always been the case that someone or other in this or that form expressed his negative attitude. The actions of these people--and the persons who are influenced by them--take various guises at various times (lately, for example, that of letters and petitions), also

varied is their intensity. One should neither belittle nor underestimate this, but it was not useful either to overestimate it." Gierek made a point of saying: "It is not dangerous to the system, it is not dangerous to the state, it is not dangerous to the party." The party does what is necessary about everything happening in the country. The reporter of the party newspaper commented that these view of the party chief reduced the matter to the "correct proportion." Even before some members of the supreme party leadership body had let it be known that one would have to live with a certain extent of opposition.

In view of the fact that the security organs chose precisely the date of publication of these soothing remarks to take renewed steps against collaborators of the committee, it must be assumed there is a distinct lack of unanimity on those problems within the ranks of the regime. Presumably the self-interest of the security organs is involved to some extent, because the committee has accused them of mistreating those arrested. While the public prosecutor general was reported by the official news agency PAP to have told the competent parliamentary committee that these accusations were without foundation, the committee had made it perfectly clear that, without a satisfactory settlement of this matter, the chapter June events could not be considered closed, and the committee would therefore be compelled to continue in being. The other consequences of the June events complained of by the committee--punishments and loss of jobs--have recently lost much of their bite because a partial pardon was granted and many of those dismissed have obviously found other jobs.

It is still too soon to conclude from last weekend's arrests that the obviously very cautious line of the regime with respect to the Polish dissidents will be replaced by a more severe approach. Possibly we see here merely the hasty act of rather subordinated organs which contrast with the political mainstream.

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ROMANIA

ROMANIAN DAILY REPORTS DEATH OF PATRIARCH JUSTINIAN

Bucharest ROMANIA LIBERA in Romanian 28 Mar 77 p 5 AU

[Text] The synod of the Romanian Orthodox Church announces with deep grief the passing away of Patriarch Justinian Marina.

He was born on 22 February 1901 at the village of Cermegesti, Vilcea County, and studied at the Rimnicu Vilcea Theological Seminar first and then at the Faculty of Theology of Bucharest University. In 1924 he was ordained as a priest and held the position of professor and later of director at the Rimnicu Vilcea Theological Seminar. He went through all the stages of church hierarchy and on 6 July 1948 was elected patriarch of the Romanian Orthodox Church.

In the highly responsible position he held, Patriarch Justinian carried out his activity in conformity with the religious freedoms envisaged by the country's constitution and laws, being inspired by noble patriotic feelings and guiding the clergy so as to support the efforts made by our people to build a new Romania. He was also always concerned with establishing sound relations among the cults in our country and contributed to insuring a climate of mutual respect and understanding between them to support the general effort aimed at the progress and prosperity of all our people.

In the Romanian Orthodox Church's international relations, Patriarch Justinian asserted the need for the church to contribute to the cause of peace and understanding among peoples.

Through the passing away of Patriarch Justinian, the Romanian Orthodox Church and the cults in our country lose a clear exemplar of a hierarch who identified himself with the aspirations of the people he belonged to.

CSO: 2700

YUGOSLAVIA

LAW ON MILITARY COURTS

Belgrade SLUZHBI LIST SFRJ in Serbo-Croatian 14 Jan 77 pp 312-327

[Law passed by the SFRY [Socialist Federal Republic of Yugoslavia] Assembly in a session of the Federal Chamber on 24 December 1976]

[Text] Chapter I. Basic Provisions

Article 1

Military courts, being regular courts, shall render judgments in cases of crimes by members of the armed forces and certain crimes committed by other persons which pertain to national defense and the country's security and also in other legal cases pertaining to disputes related to service in the Yugoslav People's Army [YPA].

Article 2

Military courts shall be independent in the performance of their judicial function, and shall render judgments on the basis of the constitution, law and general self-management acts.

Article 3

Proceedings shall be conducted before military courts in one of the languages and scripts of the nationalities of Yugoslavia [Serbo-Croatian, Slovenian or Macedonian--translator's note].

Article 4

Military courts shall follow and study social relations and trends which have a bearing on performance of their functions, in particular those which pertain to national defense and the security of the country, to exercise of the rights of members of the armed forces and to legality of the actions of military authorities, and, on the basis of their observations, to furnish the competent military authorities, assemblies of the relevant sociopolitical communities, and other government bodies, agencies

and organizations such recommendations as might prevent occurrences dangerous and harmful to society and might strengthen legality, civic responsibility and socialist ethics.

Matters relevant to ensuring uniformity in the administration of justice and to proper application of the law are also studied in military courts.

Through the federal secretary for national defense military courts shall also inform the President of the Republic, as the commander in chief of the armed forces of the Socialist Federal Republic of Yugoslavia, about enforcement of the law and about their own work.

#### Article 5

A trial before a military court shall be open to the public.

Federal law shall specify the cases in which the public may be excluded from a trial in order to protect military or other secrets, to guard morality and the interests of minors, or to protect other special interests of the social community.

Public scrutiny of the proceedings of military courts shall also be guaranteed by the issuing of reports concerning the progress of judicial proceedings under the conditions established by federal law, by the issuing of such recommendations to competent military authorities, assemblies of the relevant sociopolitical communities and other government bodies, agencies and organizations as might prevent occurrences dangerous and harmful to society and might strengthen legality, civic responsibility and socialist ethics, by the furnishing of information to the commander in chief of the armed forces of the Socialist Federal Republic of Yugoslavia (hereafter referred to as the "commander in chief of the armed forces") concerning the work of military courts, and by the publishing of court decisions.

#### Article 6

In proceedings as defined by federal law the Supreme Military Court may amend or reverse the judgment of a military court of the first instance.

This law specifies in which cases the Supreme Military Court shall sit as a special tribunal or in full court to render judgments concerning legal steps taken against judgments rendered by its panels.

Federal law shall specify in which cases the Federal Court shall render judgment concerning legal steps taken against judgments of the Supreme Military Court.

#### Article 7

Military courts shall sit as panels of judges.

In certain cases within the jurisdiction of a military court of first instance judgment may be rendered by an individual judge of that court.

#### Article 8

Military courts are made up of judges and lay judges or only of judges.

The president of a military court shall be a judge.

#### Article 9

In the context of this law members of the armed forces are as follows:

- 1) soldiers serving required military service;
- 2) cadets of military schools;
- 3) active noncommissioned officers, commissioned officers or military employees;
- 4) members of the reserves while on military duty as persons subject to military obligations;
- 5) civilians performing certain military duties.

In the context of this law a civilian is a person who in the terms of Paragraph 1 of this article is neither a member of the armed forces nor a prisoner of war.

### Chapter II. Organization and Jurisdiction

#### 1. General Provisions

#### Article 10

Military courts are the following:

- 1) military courts of first instance;
- 2) the Supreme Military Court.

#### Article 11

Military courts of first instance shall be established with jurisdiction over a particular military district or particular military units or military institutions, or they may be established with jurisdiction over a particular military district and particular military units or military institutions.

The commander in chief of the armed forces shall order the establishment, abolition, makeup, seats and jurisdiction of military courts of first instance and the makeup and seat of the Supreme Military Court.

## Article 12

Military courts shall perform the following functions:

- 1) render judgments on crimes committed by members of the armed forces and also crimes committed by other persons in the cases envisaged by this law (Article 13);
- 2) render judgments in suits concerning compensation for damage which members of the armed forces serving in the Yugoslav People's Army or civilians serving in the Yugoslav People's Army have caused the Federation in the performance of their service, concerning the Federation's demand for recovery of an amount of money paid out because of the illegal or improper work of such persons, and concerning other disputes as specified by federal law;
- 3) render judgments in administrative disputes against the administrative acts of military authorities and against other administrative acts of other federal bodies and agencies, federal organizations and communities if federal law so prescribes;
- 4) perform certain tasks in executing penalties placed within its jurisdiction by this law;
- 5) and transact other business as defined by federal law.

## Article 13

Military courts shall try civilians for the following crimes as set forth in the Criminal Code of the Socialist Federal Republic of Yugoslavia:

- 1) for the crime referred to in Article 114, if it was committed to undermine the country's military and defense capability;
- 2) for the crimes referred to in Articles 118, 119 and 121;
- 3) for the crime referred to in Article 122, if it was committed against a member of the armed forces;
- 4) for the crime referred to in Article 123, if it was committed against a member of the armed forces or to destroy property of appreciable value belonging to the armed forces of the Socialist Federal Republic of Yugoslavia (hereafter referred to as the "armed forces");
- 5) for the crime referred to in Article 124;



- 6) for the crime referred to in Article 125, if it was committed against military property or against members of the armed forces;
- 7) for the crimes referred to in Articles 126 and 127, if military property was involved;
- 8) for the crimes referred to in Article 128 and 129, if the information pertained to national defense;
- 9) for the crime referred to in Article 135;
- 10) for the crime referred to in Article 136, if the crimes referred to under Points 1 through 4 and Points 6 and 7 of this paragraph were committed;
- 11) for the crimes referred to in Articles 201 through 239 (crimes against the armed forces).

Military courts shall also try civilians for crimes committed against property and breaches of official duty as envisaged in criminal laws if the crime concerns a piece of combat equipment or a weapon or ammunition or explosives used for purposes of national defense.

Civilians who have the status of civilians serving in the armed forces (hereafter referred to as "civilians serving in the armed forces") shall also be tried by military courts for crimes committed in performance of their duties or in connection with their duties and for all other crimes which they commit as joint perpetrators with members of the armed forces or some other participation in the crime with members of the armed forces.

Prisoners of war shall be tried by military courts for all crimes which they commit as prisoners of war and for crimes against humanity and international law (Articles 141 through 156 of the Criminal Code of the Socialist Federal Republic of Yugoslavia).

#### Article 14

If a civilian has committed crimes within the jurisdiction of a military court and some other regular court, the military court shall be competent to try such crimes.

If in an action of libel or slander between a member of the armed forces and a civilian a private complaint and cross complaint have been filed, the court with which the complaint was filed shall have jurisdiction to try the cross complaint.

As an exception to the provision of Paragraph 2 of this article, the military court shall have jurisdiction in trying the complaint and cross complaint in a case of libel or slander between a member of the armed forces and a civilian serving in the armed forces.

## Article 15

If a member of the armed forces and a civilian, other than the persons referred to in Article 13, Paragraph 4, of this law, have committed a crime as joint perpetrators or as joint participants in some other manner, and if some other regular court is competent to try the civilian, that court shall also try the member of the armed forces.

As an exception to the provision of Paragraph 1 of this article, if the member of the armed forces has committed a breach of official duty, and the civilian is a joint principal or other joint participant, the military court shall try both the member of the armed forces and the civilian.

If in connection with the committing of a crime by a member of the armed forces or an individual as referred to in Article 13 of this law and by a civilian, one of them is an accessory after the fact, or failed to report the preparation of the crime, the committing of the crime or the offender--the court competent to try the principal shall also be competent to try the accomplice.

## Article 16

If before the date when the indictment takes effect or before the date when charges or a private complaint are filed with a military court, the accused ceases to have the status of a member of the armed forces or a civilian serving in the armed forces, another regular court shall be competent to try the case unless crimes referred to in Article 13, Paragraphs 1, 2 and 4 of this law are involved.

As an exception to the provision of Paragraph 1 of this article, the military court shall try an accused who has ceased to have the status of a member of the armed forces or civilian serving in the armed forces if he committed the crime as a joint principal or other participant with an individual whose trial falls within the jurisdiction of a military court.

## 2. Military Courts of First Instance

## Article 17

In cases within jurisdiction of military courts military courts of the first instance shall perform the following functions:

- 1) render judgments in the first instance in criminal cases;
- 2) conduct the examination;
- 3) rule on appeals against decisions of the examining judge of the military court;

- 4) rule on an objection to an indictment;
- 5) render judgment in the first instance concerning suits for reimbursement of damage which members of the armed forces serving in the Yugoslav People's Army or civilians serving in the Yugoslav People's Army cause the Federation in connection with performance of their duty and concerning the demand of the Federation for reimbursement of the amount paid because of the illegal or improper work done by such persons (hereafter referred to as "property disputes");
- 6) render original decisions on petitions for protection against the illegal actions of officials in military authorities if other judicial protection has not been provided;
- 7) render original judgments in other legal cases as specified by federal law;
- 8) perform certain tasks in the execution of punishment placed in their jurisdiction by this law;
- 9) and also transact other business placed in its jurisdiction by federal law.

#### Article 18

Military courts of first instance shall sit in panels consisting of one judge and two lay judges.

Cases involving crimes for which law provides a prison sentence of 15 years or more severe penalty shall be tried by military courts of first instance sitting as panels consisting of two judges and three lay judges.

A judge of a military court of first instance may try as an individual cases of crimes which as to substance the Law on Criminal Procedure places within the jurisdiction of an individual judge of some other regular court of first instance, except crimes against the armed forces.

A judge of a military court of first instance shall try as an individual property disputes which as to subject matter the Law on Trial Procedure places in the competence of an individual judge of some other regular court of first instance.

When a military court of first instance renders judgment of a petition for protection against the illegal action of an official in a military body or when it renders judgment without a trial, the court shall be made up of three judges.

## Article 19

When necessary, military courts of first instance shall sit in full court for the following specific purposes: to examine matters pertaining to social relations and trends which the court has followed and studied and matters which have a bearing on ensuring uniformity in the administration of justice and on the proper application of the law; approve such recommendations for submittal to the competent military authorities, assemblies of the relevant sociopolitical communities and other government bodies, agencies and organizations as might prevent occurrences dangerous and harmful to society and might strengthen legality, civic responsibility and socialist ethics. It is also in such sittings that reports shall be prepared on application of the law and the work of the court and decisions shall be made to initiate proceedings for evaluation of constitutionality or legality.

The president of the military court shall call the sitting of the full court and shall direct its proceedings.

## Article 20

When a military court of first instance sits as a panel:

- 1) in criminal cases involving members of the armed forces, the lay judges shall be active members of the armed forces, provided that in the criminal cases of noncommissioned officers, commissioned officers or military employees one lay judge has the same rank or grade of the accused;
- 2) in criminal cases involving civilians, one lay judge must be a civilian serving in the armed forces, while the other lay judges shall be active members of the armed forces;
- 3) in criminal cases involving minors, the lay judges referred to in Point 1 or Point 2 of this article must be persons who have experience in the raising of minors;
- 4) in criminal cases in which there is more than one defendant who is a member of the armed forces, the lay judges shall be assigned according to the defendant who has the highest rank or grade, and if the defendants include not only members of the armed forces, but a civilian as well, the lay judges shall also be appointed to try the civilian, and one of the lay judges who is an active member of the armed forces must have the same rank or grade of the defendant who has the highest rank or grade;
- 5) in property disputes the lay judges shall be active members of the armed forces, except in disputes involving civilians serving in the Yugoslav People's Army, in which one lay judge must be a civilian serving in the Yugoslav People's Army.

## Article 21

A military court of the first instance shall initiate before the competent constitutional court proceedings for evaluation of the constitutionality of a law or of the constitutionality and lawfulness of other regulations, general acts or general self-management acts, when a question of constitutionality or lawfulness has been raised in proceedings before a military court of first instance.

A military court of first instance shall inform the Supreme Military Court that it has instituted proceedings for evaluation of constitutionality or lawfulness.

A military court of first instance which has instituted proceedings for evaluation of constitutionality or lawfulness may not continue proceedings before the competent constitutional court has rendered a decision concerning the proceedings instituted for evaluation of constitutionality or lawfulness.

The provision of Paragraph 3 of this article shall also apply when the Supreme Military court decides to institute proceedings for evaluation of constitutionality or legality before the competent constitutional court in connection with a case being argued before it.

## Article 22

Records of information concerning relations and incidence noted in the work of the court shall be recorded in military courts of first instance.

### 3. The Supreme Military Court

## Article 23

The Supreme Military Court shall perform the following functions:

- 1) render judgments on appeals against decisions of military courts of first instance in the cases envisaged by this law;
- 2) render judgments on a petition for protection of legality against valid decisions of military courts of first instance in the cases specified by this law;
- 3) decide on petitions for exceptional mitigation of a penalty;
- 4) render judgments in administrative disputes in the first and last instance against administrative acts of military authorities and against administrative acts of other federal bodies, agencies and organizations and communities if federal law has so provided;

- 5) render judgment on a petition for protection of freedom and rights guaranteed by the SFRY Constitution if that freedom or right has been violated by an individual final act of a military authority, and no other judicial protection has been furnished;
- 6) resolve jurisdictional disputes among military courts of first instance;
- 7) appoints the delegates of the Supreme Military Court to the joint session of supreme courts;
- 8) establish the fundamental legal conceptions concerning matters which are important to uniform application of the law by military courts;
- 9) initiate before the competent constitutional court proceedings for evaluation of the constitutionality of a law or evaluation of the constitutionality and lawfulness of other regulations, general acts or general self-management acts, when a point of constitutionality or lawfulness has been raised in proceedings before the Supreme Military Court;
- 10) and transact other business placed in its jurisdiction by federal law.

#### Article 24

The Supreme Military Court may request from military courts of first instance information in connection with the application of the law, information on problems arising in the administration of justice, and other information necessary to the study of particular matters arising in their work.

#### Article 25

The Supreme Military Court, should it detect shortcomings in the administration of justice while making a determination concerning a legal remedy against the decisions of a lower court, it may bring those shortcomings to the attention of the military court of first instance.

If the shortcomings have been found in courts at a high level or if they have major importance, the Supreme Military Court may bring such shortcomings to the attention of all or some courts of first instance.

The conceptions of the law expressed in the criticism of the Supreme Military Court are not binding upon military courts of the first instance.

#### Article 26

When the Supreme Military Court is ruling on appeals against verdicts of military courts of first instance rendered in criminal proceedings or on appeals against a decision to invoke the preventive measure of commitment to an institution for the mentally ill or to some other institution for

confinement or treatment or on a petition for exceptional mitigation of punishment, the court shall consist of two judges and three lay judges.

When the Supreme Military Court sits as a special tribunal (Article 63), the court consists of three judges and four lay judges.

The lay judges in the Supreme Military Court shall be commissioned officers.

As an exception to the provision of Paragraph 1 of this article, when the Supreme Military Court is ruling on appeals against verdicts rendered in criminal proceedings by a single judge of a military court of first instance, the court shall consist of three judges.

When the Supreme Military Court is ruling on appeals against the verdicts of military courts of first instance rendered in property disputes or when it is making a determination in administrative disputes or ruling on a petition for protection of lawfulness against valid verdicts of military courts of first instance and in other cases, the court shall consist of three judges.

#### Article 27

The Supreme Military Court shall sit in full court to perform the following functions:

- 1) in deciding on institution of proceedings before the competent constitutional court for evaluation of constitutionality or lawfulness (Article 23, Point 9);
- 2) in approving, on the basis of a study of relations and trends noted in its work, recommendations which it shall make to competent military authorities, assemblies of relevant sociopolitical communities and other government bodies, agencies and organizations such as might prevent occurrences dangerous and harmful to society and might strengthen legality, civic responsibility and socialist ethics;
- 3) in rendering opinion on the need to enact or amend a law or other regulations which have a bearing on national defense or which pertain to the armed forces and service in the armed forces;
- 4) in setting forth fundamental legal views on issues important to uniform application of the law by military courts;
- 5) in adopting rules concerning its own operating procedure and the operating procedure of military courts of first instance (rules of court);
- 6) in appointing the delegates of the Supreme Military Court to the joint session of supreme courts;

7) in ruling on a petition for protection of legality against valid decisions of the Supreme Military Court in the cases specified by this law;

8) and in transacting other business as specified by federal law.

Fundamental legal views adopted in full court are binding upon all panels of the Supreme Military Court and may be amended only in full court.

The Supreme Military Court shall apprise the Federal Court and military courts of first instance of fundamental legal views adopted in full court.

#### Article 28

The full court of the Supreme Military Court consists of the president and all the judges of that court.

The full court of the Supreme Military Court shall be called by the president of that court, who shall also direct its proceedings.

The quorum in full court shall be two-thirds of the judges of the Supreme Military Court. Decisions are made by majority vote of all the judges of the Supreme Military Court.

#### Article 29

Records of information concerning relations and trends noted in the work of the courts and records on judicial practice shall be kept in the Supreme Military Court.

### Chapter III. Judges and Lay Judges of Military Courts

#### 1. Appointment

#### Article 30

Judges and lay judges of military courts shall be appointed by the commander in chief of the armed forces.

The principle of maximum uniformity in the representation of the republics and autonomous provinces shall be applied in the appointment of the president and judges of the Supreme Military Court.

#### Article 31

Only an officer in the legal service--a qualified lawyer who has passed the examination for the rank of major in the legal service or the magistrate's examination.



Only an officer of the legal service who has served at least 3 years as a judge in a military court of first instance and an officer in the legal service who is a qualified lawyer who has passed the examination for the rank of major in the legal service or the magistrate's examination and has worked on legal business for at least 5 years may be appointed a judge of the Supreme Military Court.

#### Article 32

The judges of military courts are appointed for 4-year terms. They may be reappointed at the end of that term.

Lay judges of military courts are appointed for 2-year terms from among commissioned officers, noncommissioned officers, military employees and civilians serving in the armed forces.

#### Article 33

Judges and lay judges of military courts shall take the following solemn oath when entering upon their office:

"I swear that in my work I shall abide by the constitution and law, that I will perform the duty of judge conscientiously and impartially, and that I will protect the order of the Socialist Federal Republic of Yugoslavia."

Judges and lay judges shall take the solemn oath before the commander in chief of the armed forces or senior officer whom he designates.

### 2. Rights and Duties

#### Article 34

No judge or lay judge of a military court may be called to account for his opinion or vote in performance of his judicial duties.

#### Article 35

No judge or lay judge of a military court may be taken into custody because of a crime committed in performance of his judicial duties without permission of the commander in chief of the armed forces.

#### Article 36

A judge of a military court may not do service or conduct a transaction which is incompatible with his judicial duties.

#### Article 37

A lay judge of a military court is entitled to reimbursement of expenses incurred because of performance of his judicial duties. Such reimbursement may be set in a fixed amount.

The federal secretary for national defense shall issue regulations on reimbursement of expenses incurred in performance of judicial duties by lay judges.

#### 3. Suspension

#### Article 38

The judge of a military court shall be suspended while in custody awaiting trial or while serving a prison sentence for a crime.

A judge of a military court may be suspended if criminal proceedings have been instituted against him or if a petition for his removal has been filed because he has been convicted of a crime or has committed a grave violation of judicial duties or an act unbefitting of a judge, or because he is unworthy or morally and politically unsuitable to perform the duties of a judge.

The petition for suspension in the case referred to in Paragraph 2 of this article shall be made by the president of the Supreme Military Court when it concerns the judges and presidents of military courts of first instance and the judges of the Supreme Military Court, and it shall be issued by the federal secretary for national defense when it concerns the president of the Supreme Military Court.

The decision concerning suspension in the case referred to in Paragraph 1 of this article shall be made by the president of a military court when it concerns the judges of that court, by the president of the Supreme Military Court when it concerns the president of military courts of first instance, and by the commander in chief of the armed forces when it concerns the president of the Supreme Military Court.

The commander in chief of the armed forces shall make the decision concerning suspension in the case referred to in Paragraph 2 of this article.

#### 4. Removal

#### Article 39

A judge of a military court shall be removed from office before expiration of his term in the following cases:

- 1) if with his consent he has been appointed to another position;

- 2) if his active military service has terminated;
- 3) if he has been sentenced to an unsuspended prison term longer than 6 months or has been given milder punishment for a crime which makes him unworthy to perform the duties of a judge;
- 4) if it is found that he has committed a serious violation of his judicial duties or an act demeaning to a judge;
- 5) if it is found that he has demonstrated in his work that he is not competent to perform the duties of a judge;
- 6) if it is found that he did not qualify to be appointed a judge;
- 7) if it is found on the basis of the opinion of a competent military medical commission that he is unfit to perform the duties of a judge because of his state of health;
- 8) if it is found that he is morally and politically unfit to perform the duties of a judge;
- 9) if he applies for his own dismissal.

#### Article 40

A judge of a military court may be removed if the number of judges in a military court has been reduced by act of the competent authority.

A judge of a military court shall be considered removed if the military court to which he was appointed has been abolished.

#### Article 41

A lay judge of a military court shall be removed before expiration of his term of office in the following cases:

- 1) upon termination of his active military service or service of a civilian serving in the armed forces;
- 2) if he has been sentenced to an unsuspended prison sentence longer than 6 months or to a milder penalty for a crime which makes him unworthy to perform the duties of a lay judge;
- 3) if it is found that he has committed a serious violation of his duties as a lay judge or an act demeaning to a lay judge;
- 4) if it is found that he has demonstrated in his work that he is not competent to perform the duties of a lay judge;

- 5) if it is found that he has been negligent in the performance of his duties as a lay judge;
- 6) if it is found that he is morally and politically unfit to perform the duties of a lay judge;
- 7) if he requests his own dismissal.

A lay judge shall be regarded as removed if the military court to which he was appointed has been abolished.

#### Article 42

An order to remove a judge of a military court because he has been sentenced to an unsuspended prison sentence lasting 6 months or to a milder punishment for a crime which makes him unfit to perform his duties as a judge or for the reasons enumerated in Article 39, Points 4, 5, 6 and 8 of this law, and an order to remove a lay judge of a military court because he has been sentenced to an unsuspended prison sentence of 6 months or a milder sentence for a time which makes him unworthy to perform the duties of a lay judge and for the reasons enumerated in Article 41, Paragraph 1, Points 3, 4, 5 and 6 of this law, may be issued only if proceedings have first been conducted in which a determination was made as to the existence of grounds for removal, if in such proceedings the judge or lay judge was examined, and if he was given an opportunity to respond to the grounds for his removal.

The proceedings for ascertainment of grounds referred to in Paragraph 1 of this article for removal of a judge or lay judge shall be conducted by a commission consisting of three members who are judges of military courts and other commissioned officers. The commission shall be created by the president of the Supreme Military Court or by the federal secretary for national defense when the defendant is the president of the Supreme Military Court.

#### Article 43

The commander in chief of the armed forces shall remove judges and lay judges of military courts.

The federal secretary for national defense shall submit petitions for removal of judges and lay judges of military courts.

The petition for removal of a judge or lay judge on the grounds enumerated in Article 42, Paragraph 1, of this law shall be submitted after an opinion has been obtained from a commission which has conducted proceedings to ascertain grounds for removal.

#### Article 44

A judge or lay judge of a military court may not perform his official duties if criminal proceedings have been instituted against him for a crime which is automatically prosecuted or if proceedings for his removal have been instituted under the provision of Article 42, Paragraph 1, of this law--until such proceedings are concluded.

#### 5. Temporary Transfer to Another Military Court

#### Article 45

A judge of a military court of first instance may be temporarily transferred to serve as a judge in another military court of first instance, but such transfer may not last more than 6 months within any one year.

The president of the Supreme Military Court shall make the decision concerning temporary transfer.

A temporary transfer to another military court shall be made only if the regular transaction of business in that court has been jeopardized because of the incapacity or disqualification of judges or for other good reasons.

#### 6. Other Provisions

#### Article 46

The provisions of the Law on Service in the Armed Forces governing relations in the service and the rights, duties and responsibilities of members of the armed forces shall also apply to the presidents and judges of military courts, unless this law specifies otherwise.

#### Article 47

The judges of military courts shall be accountable under regulations on disciplinary responsibility of members of the armed forces for violations of military discipline committed other than in performance of their judicial duties.

The president of a military court is competent to hear cases concerning disciplinary errors as referred to in Paragraph 1 of this article by a judge of a military court, and cases involving the disciplinary errors of a president of a military court of first instance shall be heard by the commanding officer of the military unit for whose military district the court was set up or the commanding officer of the military unit or military institution in which the court has been established.

#### Article 48

Judges of military courts shall be evaluated under the regulations that apply to periodic evaluation of members of the armed forces, with the provision that the regular evaluation shall be done 6 months before expiration of the term for which they have been appointed.

#### Article 49

The provisions of this law concerning the rights and duties of judges, their appointment, removal and suspension, the taking of the solemn oath, the accountability of judges for violations of military discipline and fitness reports shall also apply to presidents of military courts.

#### Chapter IV. Staff Specialists and Clerks [Lawyers in Training] in Military Courts

##### 1. Staff Specialists

#### Article 50

Staff specialists may be appointed in military courts to perform certain professional duties.

#### Article 51

Only a commissioned officer in the legal service who has a law degree and who has passed the examination for the rank of major in the legal service or the magistrate's examination may be appointed a staff specialist.

Staff specialists shall have a share in studying legal questions, shall draft court decisions, and they may be asked to prepare the reports of the court and to keep records concerning court practice.

#### Article 52

Staff specialists shall be appointed in accordance with the regulations that govern appointment of members of the armed forces.

##### 2. Clerks [Lawyers in Training]

#### Article 53

Members of the armed forces who have a law degree are sent for a period of training to military courts of first instance after they have graduated from law school in order to acquire the requisite courtroom experience.

The federal secretary for national defense shall issue regulations concerning this period of training.

## Chapter V. Court Administration

### Article 54

Those functions which ensure the conditions which military courts require for their work and for transaction of their business fall within the domain of court administration.

The functions of court administration lie in the jurisdiction of the Federal Secretariat for National Defense and that of the president of the military court.

### Article 55

Within the domain of court administration the Federal Secretariat for National Defense performs those functions which pertain to resolving matters of organization, personnel, supply and finances which are crucial to the work of military courts, to improvement of the work and transaction of business by military courts, to court statistics and to other matters of court administration.

In performing the functions of court administration referred to in Paragraph 1 of this article the Federal Secretariat for National Defense may request from military courts data and reports and may issue them instructions as to performance of these functions.

### Article 56

The president of the military court shall perform those functions in the domain of court administration which pertain to organizing and overseeing the internal conduct of business in the court, to fulfillment of the financial plan and to other matters crucial to the conditions the court requires for its regular operation.

### Article 57

The Federal Secretariat for National Defense shall oversee performance of the functions of court administration either through the presidents of the Supreme Military Court and on its own.

### Article 58

Rules on internal conduct of business (the rules of court) of military courts shall contain provisions on the following: the assignment of work in the court, the manner in which court dockets and auxiliary books shall be kept, the conduct of business in the office of the clerk of court, the form of court summonses and other forms, procedure governing the handling of court documents, the summoning and assignment of lay judges, the appointment of permanent court experts and court interpreters in matters

concerning property and financial transactions, and provisions on other matters related to the internal conduct of business in military courts.

#### Article 59

At the beginning of the year a determination shall be made in each military court whereby specific functions are assigned to the various individual judges and to the other persons working in the court.

The president of the court shall approve the assignment of functions in the military court.

#### Article 60

Every military court shall have its own official name or title. A sign containing the name of the court in the languages and scripts of the nationalities of Yugoslavia must be displayed on the building where the military court is located.

Every military court shall have its own seal, which shall contain the name and location of the court and the emblem of the Socialist Federal Republic of Yugoslavia. The name and seat of the military court shall be written in the languages and scripts of the nationalities of Yugoslavia.

### Chapter VI. Special Provisions Concerning Criminal Proceedings Before Military Courts

#### 1. Application of the Law on Criminal Procedure

#### Article 61

The provisions of the Law on Criminal Procedure shall be applied in criminal proceedings before military courts unless this law specifies otherwise.

The functions and authorities defined in the Law on Criminal Procedure shall be performed and exercised as follows:

- 1) functions and authority vested in other regular courts of first instance--by military courts of first instance;
- 2) functions and authority vested in other regular courts of appeal and supreme courts--by the Supreme Military Court;
- 3) functions and authority vested in law enforcement authorities--by the security agencies of the armed forces and the military police within the limits of their jurisdiction as prescribed;
- 4) functions and authority of public prosecutors--by military prosecutors or the military prosecutor of the Yugoslav People's Army.



#### Article 62

The Supreme Military Court shall not hold a trial when ruling on an appeal.

#### Article 63

When ruling on an appeal against a verdict by which the Supreme Military Court has pronounced the death sentence or crimes set forth in the law of the republic or autonomous province or a prison sentence of 20 years for crimes set forth in federal law or the law of the republic or autonomous province, or a judgment confirming the verdict of a military court of first instance pronouncing the death sentence or a prison sentence of 20 years for such crimes, and in ruling on an appeal against a verdict which has modified the verdict of a military court of first instance which acquitted the accused of the charges or which pronounced the accused guilty, the Supreme Military Court shall sit as a special tribunal (Article 26, Paragraph 2) in accordance with the provisions that apply to proceedings on appeals. A judge or lay judge who has previously participated in a decision in this case may not be a member of that tribunal.

#### Article 64

If a victim who is a member of the armed forces or civilian serving in the armed forces applies for redress from a military command for a crime committed by a member of the armed forces or civilian serving in the armed forces which is prosecuted on the basis of a private complaint, the period for filing the private complaint begins to run on the day when reconciliation proceedings before the commission established by the competent military command terminate, and if such proceedings have not terminated within 3 months--upon the expiration of that period of time. If reconciliation comes about in proceedings before that commission, the injured party relinquishes the right to file a private complaint.

If upon receipt of a private complaint for a crime against honor and reputation which has not been committed in the press, radio or television, or for a crime of slight physical injury in which the private plaintiff and accused are military persons or civilians serving in the armed forces, a court of a military court of first instance finds that the military court is competent and that there are no grounds for rejection of the complaint and that reconciliation has not come about in the context of Paragraph 1 of this article, he shall refer the private complaint to the superior military command of the private plaintiff and the accused, and that military command shall establish a commission to attempt a reconciliation.

If within 3 months of the date when the private complaint was filed the court receives from the military command a report that the parties have been reconciled and that the private plaintiff has declared that he withdraws the charge, the judge shall ignore the private complaint. If within 3 months the military command does not deliver such a report, he shall assume that reconciliation did not occur and shall continue proceedings.

## 2. Defense Counsel

### Article 65

An accused may have defense counsel in proceedings before military courts.

The defense counsel of the accused may be an attorney, a military defender or other member of the armed forces who is a qualified lawyer and is capable of helping the accused in his defense.

If the conditions do not obtain for mandatory defense under the Law on Criminal Procedure, and proceedings are being conducted because of a crime for which a penalty of more than 1 year in prison may be pronounced under the law, the accused member of the armed forces, upon his request, must be furnished defense counsel in the trial, and if an accused member of the armed forces is in pretrial custody, he shall be furnished defense counsel in preliminary proceedings as well. In other cases the military defender must furnish an accused member of the armed forces, at his request, the necessary advice in connection with his defense.

If in the course of proceedings a military secret could be divulged which might have serious consequences for national security, the accused may choose defense counsel only from among military defenders or other members of the armed forces as referred to in Paragraph 2 of this article. In the inquiry this decision shall be made by the examining judge of the military court, in preparation of the trial it shall be made by the president of the court, and in the trial it shall be made by the court.

An appeal may be filed with the panel of the military court against a decision of the examining judge of the military court or of the president of the court made under the provision of Paragraph 4 of this article, and an appeal may be filed with the Supreme Military Court against the decision of the entire panel of the military court.

Only an attorney, a military defender or other member of the armed forces who has a law degree and has passed the examination for the rank of major in the legal service or the magistrate's examination may be defense counsel for the Supreme Military Court.

### Article 66

A military defender shall defend an accused if under Article 65, Paragraph 4, of this law defense by an attorney is excluded, and the accused has not engaged as defense counsel some other member of the armed forces as referred to in Article 65, Paragraph 2, of this law.

A military court may appoint a military defender to defend an accused who in a case of mandatory defense does not engage defense counsel and to defend an accused soldier who though defense is not mandatory asks to be furnished defense counsel under Article 65, Paragraph 3, of this law.

#### Article 67

Only an officer in the legal service who has a law degree and who has passed the examination for the rank of major in the legal service or magistrate's examination may be a military defender.

Military defenders shall be appointed and dismissed under regulations concerning appointment of active members of the armed forces.

#### 3. Jurisdiction as to Place

#### Article 68

The court competent to try a member of the armed forces is that military court of first instance whose jurisdiction includes the location of the military unit, military institution or government agency, organization of associated labor or other organization to which the accused belongs or to which he has been assigned to work, or that military court of first instance which has been established in the military unit or military institution to which the accused belongs.

If after a crime was committed an accused member of the armed forces has been transferred or temporarily assigned to work in another military unit or military institution, that military court of first instance is competent with respect to place which was competent to try the case at the time when the crime was committed. As an exception, a panel of the Supreme Military Court may order upon the motion of the military prosecutor of the Yugoslav People's Army that the accused be tried in this case by the court of first instance which was competent to try the case at the time when proceedings were instituted.

#### Article 69

That military court which is competent as to place to try a civilian shall be determined according to the provisions of the Law on Criminal Procedure.

If the civilian has committed a crime as referred to in Article 13 of this law jointly with a member of the armed forces, that court which is competent to try the member of the armed forces is competent as to place to try the civilian.

#### Article 70

If in a case when several individuals have been accused of committing a crime (as joint principals or other participants, accessories after the fact by virtue of having concealed the crime or aided the principal after the crime was committed, and persons who fail to report the preparation of the crime, the committing of the crime or the identity of the offender), when two military courts or more military courts of first instance are

competent to try the case, a panel of the Supreme Military Court, on a motion from the military prosecutor of the Yugoslav People's Army, shall designate that military court of first instance which shall conduct proceedings.

#### 4. The Inquiry

##### Article 71

The inquiry shall be conducted by the examining judge of the military court.

##### Article 72

Every commanding officer must take steps so that a subordinate who has committed a crime that is automatically prosecuted does not conceal himself or flee, to preserve traces of the crime and physical objects which might serve as evidence and to gather all information which might be useful to effective conduct of proceedings. The commanding officer must report what he has done to the military prosecutor directly or through his superior officer.

The report of the military officer referred to in Paragraph 1 of this article and the report of the military officer referred to in Article 76, Paragraph 2, of this law may be used in proceedings under the provisions of Articles 83 through 86 of the Law on Criminal Procedure.

##### Article 73

An order to remand an accused to the custody of the court shall be issued by the military court or examining judge of the military court.

The order to remand a member of the armed forces shall be carried out by his superior command or administration, while the order to remand a civilian shall be carried out by law enforcement authorities.

#### 5. Pretrial Custody

##### Article 74

The pretrial custody of a member of the armed forces or civilian serving in the armed forces may be ordered by the examining judge of the military court for a crime within the jurisdiction of military courts.

Pretrial custody as referred to in Paragraph 1 of this article may in exceptional cases, under the conditions set forth in the Law on Criminal Procedure, be ordered as well by the authorized officers of security agencies of the armed forces and the military police. Such officers must immediately report the ordering of confinement to the military prosecutor or examining judge of the military court.

Pretrial custody of a member of the armed forces or civilian serving in the armed forces may be ordered for crimes in the jurisdiction of another regular court, under the conditions set forth in the Law on Criminal Procedure, by the examining judge of the other competent regular court.

The agency which orders the custody of the member of the armed forces or civilian serving in the armed forces must immediately, within 24 hours, report this to that person's commanding officer.

#### Article 75

Custody of a civilian for crimes in the jurisdiction of military courts may be ordered by the examining judge of a military court.

#### Article 76

Any military officer holding the position of company commander or equivalent or higher position and any authorized official of a law enforcement agency or security agency of the armed forces or military police may arrest a member of the armed forces apprehended in committing a crime which is automatically prosecuted if there is a danger of flight or if he has threatened lives or other things of value and importance.

The military officer or authorized official referred to in Paragraph 1 of this article must immediately turn over the member of the armed forces whom they have detained with a report as to his having been apprehended in committing a crime and the grounds on which he was taken into custody to the examining judge of a military court or to the nearest military unit or military institution, which shall immediately turn him over to the competent examining judge of a military court. If the military officer or authorized official is unable to do this, he must immediately inform the examining judge of the military court or the nearest military unit or military institution, which shall immediately take custody of the person detained and immediately deliver him to the competent examining judge of the military court.

#### Article 77

The decision to extend pretrial custody beyond 3 months shall be made by a panel of the Supreme Military Court.

#### Article 78

The federal secretary for national defense shall issue regulations on pretrial custody as referred to in Articles 74 through 77 of this law.

## Chapter VII. Special Provisions on Civil Actions Before Military Courts

### Article 79

The provisions of the Law on Procedure in Civil Actions shall apply in civil suits before military courts unless this law specifies otherwise.

The functions and authority defined by the Law on Procedure in Civil Actions shall be performed and exercised as follows:

- 1) the functions and authority vested in other regular courts of first instance--by military courts of first instance;
- 2) the functions and authority vested in other regular appellate courts and supreme courts--by the Supreme Military Court.

The provisions of the Law on Procedure in Civil Actions pertaining to procedure in small-claim disputes, to trial proceedings before the appellate court and to revision shall not apply before military courts.

## Chapter VIII. Procedure in Administrative Disputes

### Article 80

An administrative dispute contesting administrative acts of military agencies and administrative acts of other federal bodies and agencies, federal organizations and communities, shall be instituted before the Supreme Military Court if federal law so provides.

### Article 81

The provisions of the Law on Administrative Disputes shall apply to the conduct of an administrative dispute before the Supreme Military Court and to the proceedings of that court in administrative disputes and to proceedings concerning a petition for protection of freedom and rights guaranteed by the SFRY Constitution if such freedom or right has been infringed upon by a final individual act of a military agency, and also concerning a petition for protection because of an illegal action by an official in the military agency, unless this law provides otherwise.

### Article 82

If the administrative act referred to in Article 80 of this law has violated a law to the advantage of an individual or juridical person, the administrative dispute before the Supreme Military Court shall be instituted by the military prosecutor of the Yugoslav People's Army.

## Article 83

A petition for protection because of an illegal action of an official in a military agency shall be ruled on by the military court of first instance within whose jurisdiction the action was committed.

## Chapter IX. Extension of Legal Aid

### Article 84

Military courts have a duty to offer one another mutual legal aid.

Military courts also have a duty to provide legal aid to other courts.

Other courts have a duty to provide legal aid to military courts.

All government bodies and agencies have a duty to extend legal aid to military courts.

## Chapter X. Petition for Protection of Legality

### Article 85

A petition for protection of legality filed against valid decisions of military courts of first instance which have not been ruled on by the Supreme Military Court concerning a legal remedy shall be decided on by the Supreme Military Court.

A petition for protection of legality against valid decisions of the Supreme Military Court which violate federal law shall be decided on by the Federal Court.

A petition for protection of legality against valid decisions of its own panels which violate a law of the republic or autonomous province shall be decided on by the Supreme Military Court sitting in full court.

## Chapter XI. Special Provisions Concerning Execution of Sanctions in Criminal Law

### 1. General Provisions

### Article 86

Sanctions in criminal law (punishment, security measures and juvenile measures) which a court has pronounced upon members of the armed forces in criminal proceedings shall be executed according to the statutes of the republic or autonomous province in which the court is located which pronounced the sanction unless this law provides otherwise.

## Article 87

If the court which rendered the original judgment and pronounced the sentence on the member of the armed forces is not empowered to execute the sentence, it shall deliver the final judgment and other documents necessary to execution of the punishment to the court or other agency competent to carry out the sentence no later than 8 days from the date when the judgment became final or from the date when the court received that judgment from the higher court.

A court which has rendered the original judgment convicting an ordinary soldier, active noncommissioned officer, commissioned officer or military employee, cadet of a military school or a civilian serving in the armed forces must within the period of time referred to in Paragraph 1 of this article deliver the final judgment to that person's military unit or military institution.

## Article 88

No fee shall be paid on petitions, official acts and decisions related to enforcement of the provisions of this law which pertain to execution of sanctions in criminal law.

## 2. Execution of the Punishment of Imprisonment

### Basic Provisions

## Article 89

A prison sentence which a court has pronounced in criminal proceedings against a member of the armed forces who has retained the status of a member of the armed forces after being sentenced to prison (hereafter referred to as the "convicted person") shall be executed under the provisions of this law.

The military court of first instance with jurisdiction over the location of the military unit or military institution to which the convicted person belongs shall be competent to carry out the sentence referred to in Paragraph 1 of this article (hereafter referred to as the "competent military court").

## Article 90

The purpose of executing the punishment of imprisonment is to render convicted persons capable of living and working in accordance with the law after serving their prison sentence.



#### Article 91

Convicted persons shall not reimburse the cost of executing the punishment of imprisonment.

#### Article 92

A prison sentence shall be carried out when the judgment pronouncing the sentence becomes final and when there are no legal impediments to execution of the punishment.

Only in exceptional cases as prescribed by law may execution of a prison sentence begin before the judgment pronouncing that sentence becomes final.

Execution of a prison sentence may be postponed only in the cases and under the conditions prescribed by this law.

#### Article 93

Convicted persons shall serve prison sentences in common. Only in exceptional cases, when the convicted person's state of health so requires or when prescribed by this law, may it be ordered that a convicted person shall serve his punishment separate from others.

The treatment of convicted persons must be humanitarian, must be mindful of their human dignity and must preserve their physical and mental health.

While serving prison sentences convicted persons shall be allowed to participate in organizing various activities and projects of common interest, such as moral and political instruction and professional military instruction, various forms of cultural and educational programs and physical education, maintenance of order and cleanliness, etc., and they shall be allowed to use books, newspapers and other news media.

#### Article 94

Convicted persons able to work must do so, and work must be provided them.

The work of convicted persons should be worthwhile and should correspond as much as possible to the present-day mode of work of the same kind outside prison.

It is the purpose of this work for convicted persons to maintain and enhance their workability and skills and specialized knowledge so that they can find employment as easily as possible after serving their sentences.

#### Article 95

The Federal Secretariat for National Defense and military courts perform the functions of executing the punishment of imprisonment for convicted persons serving sentence in a military penal institution.

#### Commencement of Execution of the Prison Sentence

#### Article 96

The competent military court (Article 89, Paragraph 2) must take the necessary steps to execute a prison sentence immediately when the judgment becomes final or immediately upon receiving the final judgment, but no later than 8 days after its receipt.

#### Article 97

If the convicted person is at liberty, the competent military court shall summon him to appear on the appointed day to serve his prison sentence. The competent military court shall fix the date of appearance so that the convicted person is allowed at least 8 days but no more than 15 days before the date of departure. The convicted person shall be given a money allowance to cover travel expenses to the place where the military penal institution is located.

Should the convicted person not report on time to the administration of the military penal institution, the administration of that institution shall immediately inform the competent military court. The competent military court shall take steps to deliver the convicted person by force to serve his sentence, in which case the convicted person shall pay the cost of commitment.

A convicted person who is in custody and who is to serve his prison sentence in a military penal institution shall be sent to serve his sentence by the military court of first instance which has jurisdiction at the place where the convicted person is confined.

The competent military court shall deliver to the administration of the military penal institution a copy of the original judgment, a copy of the judgment on appeal, if one was pronounced, and a copy of the convicted person's last fitness report, and at the same time it should inform the administration of the military penal institution on what day the convicted person is to appear to serve his sentence.

#### Article 98

A person who following conviction has not retained the status of a member of the armed forces and who is in custody or a convicted person whose status as a member of the armed forces terminates while he is in custody

or serving a sentence in a military penal institution shall be turned over to the agency which performs functions of executing prison sentences competent under the statutes of the republic or autonomous province where the military prison or military penal institution is located as soon as the convicted person is officially discharged from the armed forces.

#### Article 99

A convicted person who is in custody in a military prison and who on the basis of the provisions of the Law on Criminal Procedure asks to be sent to serve his prison sentence before the judgment becomes final shall make a statement to this effect before the judge of the military court of first instance so designated by the president of the court. When the judge takes his statement, he shall advise the convicted person that in the military penal institution he will have the same rights and duties as other convicted persons.

The judge shall immediately deliver the request of the convicted person who is in custody and one copy of the original judgment to the president of the court, who shall make the decision on sending the convicted person to a military penal institution.

In deciding on the request referred to in Paragraph 1 of this article, particular consideration shall be given to the time the convicted person must serve under the original judgment after deduction of pretrial custody and the distance of the institution where he would be sent to serve his sentence in view of the need to have the convicted person present for criminal proceedings of appeal or some other criminal proceedings.

No appeal may be filed, nor may an administrative dispute be instituted against the decision of the president of the military court whereby he rejects the request of the convicted person to be sent to serve his sentence before his conviction becomes final.

#### Article 100

Execution of a prison sentence imposed on a convicted person who is at liberty may be postponed upon his petition or at the request of his superior officer in the following cases:

- 1) if he has become seriously ill with an acute illness;
- 2) if a death or serious illness has occurred in his immediate family;
- 3) if his family would be put in a difficult position were he sent to serve his sentence because of a natural disaster;
- 4) if postponement is necessary for reasons of transfer of duties to his successor or if he must perform a particular job he has already begun, and

his failure to complete that job would cause considerable damage, or if his participation in a military exercise is necessary;

5) if the postponement is required for him to finish school or take an examination for which he has been preparing;

6) if his spouse or other members of the same household have been convicted with him or if they are already serving sentences, and if the sending of all such persons to serve their sentences would jeopardize the support of elderly, sick or minor members of the household;

7) if the convicted person is a woman who is nursing an infant under 1 year of age or is pregnant and less than 3 months remain before childbirth.

The serving of a sentence in the case referred to in Point 1 of Paragraph 1 of this article may be postponed so long as the illness lasts, the postponement in the cases referred to in Points 2 through 4 may not exceed 3 months, in the cases referred to in Points 5 and 6 it may not exceed 6 months, and in the case referred to in Point 7 it may be granted until the infant reaches 1 year of age.

#### Article 101

The petition for postponement of the execution of a sentence of imprisonment shall be filed within 3 days from the date of receipt of the summons to serve the prison sentence. The request of a superior officer to postpone execution of a prison sentence of a convicted person and the petition if the convicted person, if grounds for postponement under Article 100, Paragraph 1, Points 1, 2 and 3 of this law have accrued after that date, may be filed until the date when the convicted person is to appear to serve his sentence.

The petition or request must present evidence concerning the facts justifying the postponement.

The petition of a convicted person or request of a superior officer for postponement of the execution of a punishment of imprisonment shall be ruled on by the president of the military court competent to commit the convicted person to serve his sentence (Article 97, Paragraphs 1 and 3), who must make his decision within 3 days from the date of receipt of the petition or request. Before the decision is made, the necessary check may be made to ascertain the facts alleged in the petition or request. Commencement of execution of the punishment shall be postponed until a decision is rendered on the petition or request.

#### Article 102

An appeal may be filed against a decision rejecting a petition or request for postponement of execution of a prison sentence with the president of the Supreme Military Court. The president of the Supreme Military Court must render a decision within 3 days from the date of receipt of the appeal.

An administrative dispute may not be instituted against the decision of the president of the Supreme Military Court referred to in Paragraph 1 of this article.

#### Article 103

If on the basis of his legal authority the competent prosecutor seeks postponement of execution of a prison sentence, the competent military court shall not summon the convicted person, and if it has already summoned him, but the period for reporting to the military penal institution has still not elapsed, it shall render a decision postponing execution of the punishment.

Postponement of execution of punishment in the case referred to in Paragraph 1 of this article shall last until the prosecutor informs the competent military court that execution of the punishment may commence or until a new court judgment is rendered.

#### Article 104

At the outset of his serving of a prison sentence a convicted person shall be familiarized with the rules of the penal institution, his rights and duties while serving his sentence, the manner in which he can exercise his rights, and the disciplinary measures and punishments which may be pronounced.

The provisions of this law pertaining to execution of a prison sentence, regulations adopted on the basis of this law and the rules of the military penal institution should be accessible to convicted persons while serving their sentences.

### 3. The Military Penal Institution

#### Article 105

Convicted persons shall serve their prison sentences in a military penal institution.

Men shall serve their prison sentence separately from women.

The organization of work and way of life in the military penal institution shall be set forth in the prison rules adopted by the warden of that institution, which are subject to the consent of the Federal Secretariat for National Defense.

#### Article 106

The Federal Secretariat for National Defense shall oversee execution of prison sentences in a military penal institution. This oversight shall be exercised in order to generalize constructive lessons to be drawn from the work of penal institutions, to analyze and study the operation of the military penal institution and to offer professional assistance in improving its operation.

Oversight with respect to legal and correct treatment of convicted persons in the military penal institution shall be exercised by the Federal Secretariat for National Defense and the military court of first instance in whose jurisdiction the institution is located. In performance of that oversight the authorized official of the Federal Secretariat for National Defense and the president of the military court of first instance or judge whom he designates must visit convicted persons when necessary, but at least twice a year, must inform himself about treatment of convicted persons and about conditions which promote legal and correct treatment, and must take necessary steps to correct shortcomings noted on his visits.

#### 4. Status of Convicted Persons

##### Article 107

The housing of convicted persons should meet the conditions prescribed for the accommodation of units and institutions of the Yugoslav People's Army.

Convicted persons shall be fed according to the standards prescribed for nutrition in the Yugoslav People's Army.

Convicted persons shall wear their military service uniform while serving their prison sentences.

##### Article 108

Convicted persons shall be assigned types of work to meet their abilities, their military rating, the opportunities available, and the needs of discipline. Within those limits consideration shall be given to the desire of convicted persons to do work of a particular kind.

Regular working hours of convicted persons may not last longer than 8 hours per day.

Outside of regular working hours convicted persons may take employment for not more than 2 hours daily to perform activities necessary to maintaining the cleanliness and ensuring normal life in the military penal institution.

#### Article 109

Convicted persons who work indoors must be allowed to spend at least 2 hours per day outside in the fresh air.

Convicted persons who have worked continuously at a regular job for 11 months, including the time spent in medical treatment because of a job injury or occupational disease, are entitled to continuous leave amounting to 18 workdays in 1 year.

#### Article 110

Convicted persons have the right to receive official correspondence from bodies, agencies and institutions and to send them petitions in order to protect their rights and interests protected by law.

The administration of the military penal institution must offer aid to convicted persons in the form of advice concerning steps that need to be taken to protect their rights.

#### Article 111

Convicted persons have the right to receive and send mail, to receive packages containing underwear, articles for personal use, periodicals and food in conformity with regulations enacted on the basis of this law.

Convicted persons have the right to a weekly visit by members of their immediate family or by other persons with permission of the warden of the military penal institution or agencies exercising the right of oversight over that institution.

The warden of the military penal institution may grant convicted persons privileges like the following for good behavior and industry: broader right to receive visitors and mail, unsupervised visits in the institution or outside it, greater freedom of movement, the granting of leave up to 7 days in 1 calendar year, and permission to spend part or all of annual leave outside the institution.

#### Article 112

On the grounds set forth in Article 100 of this law and upon the petition of the convicted person or recommendation of the warden of the military penal institution a convicted person may be allowed to interrupt the serving of a prison sentence, such interruption not to exceed 3 months. An interruption allowed for medical treatment may last until the end of treatment.

Interruption of the serving of a sentence shall also be granted at the request of the military prosecutor of the Yugoslav People's Army if he has filed a petition for protection of legality.

Time spent at liberty when an interruption has been granted shall not be counted as time served.

The decision on interruption of the serving of a sentence shall be made by the president of the military court of first instance in whose jurisdiction the military penal institution is located.

An appeal may be filed with the president of the Supreme Military Court against a decision rejecting a petition of a convicted person for interruption of the serving of a sentence. The president of the Supreme Military Court must make a decision within 3 days from the date of receipt of the appeal.

An administrative dispute may not be instituted against the decision of the president of the Supreme Military Court concerning an appeal.

#### Article 113

A convicted person has the right to file a grievance with the warden of the military penal institution because of a violation of his rights or other irregularities committed against him. The warden must carefully examine every grievance and render a decision if he is competent to render the decision. If the convicted person has not received a response to a grievance that has been filed or is not satisfied with the decision that was rendered, he has the right to submit a written petition to the Federal Secretariat for National Defense via the administration of the military penal institution.

On the grounds cited in Paragraph 1 of this article the convicted person also has the right to complain to an official who is conducting an inspection in the military penal institution, and this shall be done when officials of that institution are not present.

#### 5. Maintaining Order and Discipline

#### Article 114

Convicted persons must abide by prison regulations, rules governing work discipline and the orders of officials.

Only those restrictive measures necessary to maintaining security and to the orderly functioning of community life in the military penal institution may be used to maintain order and discipline.



#### Article 115

The military police shall perform the security function in the military penal institution.

A member of the military police may use coercive means only when this is necessary to prevent a physical attack on personnel, the inflicting of an injury on another, a self-inflicted injury or the causing of property damage by convicted persons. Physical force may also be used when necessary to prevent a convicted person's resistance to a legitimate order by an official. The member of the military police shall immediately inform the warden of the military penal institution of every use of coercive means against a convicted person.

#### Article 116

Convicted persons shall bear disciplinary responsibility under regulations concerning military discipline for violation of prison rules, work discipline and the correct attitude toward officials and other convicted persons, unless this law specifies otherwise.

In addition to disciplinary measures and penalties envisaged by the regulations on military discipline, the following disciplinary penalties may also be pronounced against convicted persons:

- 1) prohibition against receiving food packages (Article 11, Paragraph 1) up to 3 months;
- 2) commitment to solitary confinement up to 30 days.

Both types of penalties referred to in Paragraph 1 of this article may be simultaneously pronounced against a convicted person.

In pronouncing the disciplinary penalties referred to in Paragraph 2 of this article the warden of the military penal institution may suspend execution of the disciplinary penalty that has been pronounced for a period of 6 months under the conditions that the penalty will not be executed if the convicted person does not receive another disciplinary penalty in that period. The warden shall suspend execution of the disciplinary penalty if he finds that the purpose of punishment can be achieved even without executing the penalty toward the convicted person.

Suspension of execution of a disciplinary punishment may be revoked if the convicted person subject to the suspended punishment receives another disciplinary punishment in the period for which execution of the punishment was suspended. If the suspended punishment has been revoked, the warden of the military penal institution shall pronounce a single punishment, within the limits defined in Paragraphs 2 and 3 of this article, to cover both the previous and the new disciplinary culpability, taking the disciplinary penalty previously pronounced as already established.

#### Article 117

The disciplinary penalty of solitary confinement may not be invoked if its execution would threaten the health of the convicted person.

The disciplinary penalty of solitary confinement consists of the convicted person's continuous confinement in a separate room for the duration of the disciplinary penalty that has been pronounced, with a daily walk in the fresh air to last 1 hour.

#### Article 118

The disciplinary measures envisaged by regulations on military discipline and the disciplinary punishment envisaged by this law shall be pronounced by the warden of the military penal institution.

The disciplinary measure or disciplinary punishment referred to in Paragraph 1 of this article may be pronounced only after the convicted person has been examined and his defense verified if that should be necessary. When a disciplinary measure or disciplinary punishment is being pronounced, consideration shall be given to whether the convicted person has previously received disciplinary punishment.

#### Article 119

A convicted person who commits a crime for which the law prescribes a fine or imprisonment less than 1 year while serving a prison sentence shall be given a disciplinary punishment.

#### 6. Parole

#### Article 120

A convicted person who has served half of his prison sentence may be paroled under the condition that he not commit a new crime during the remainder of his sentence.

A convicted person may be paroled if while serving his sentence he has improved so much that one can soundly expect that he will behave well at liberty and will in particular not commit crimes. When the parole of a convicted person is being evaluated, consideration shall be given to his behavior while serving his sentence, his performance of work duties in view of his ability, and other circumstances which might show that the purpose of punishment has been achieved.

In exceptional cases a convicted person may be paroled after he has served only one-third of his prison sentence if the conditions referred to in Paragraph 2 of this article obtain and if special circumstances pertaining to the personality of the convicted person obviously demonstrate that the purpose of punishment has been achieved.

#### Article 121

The court shall revoke a parole if during parole the convicted person commits one or more crimes for which an unsuspended prison sentence lasting more than 1 year has been pronounced.

The court may revoke a parole if the parolee commits one or more crimes for which an unsuspended prison sentence less than 1 year has been pronounced. In evaluating whether to revoke the parole the court shall specifically take into consideration the similarity among the crimes that have been committed, their importance, the motives for which they were committed, and other circumstances that have a bearing on grounds for revoking the parole.

If the court revokes the parole, it shall pronounce a sentence by applying the provisions of the Criminal Code of the Socialist Federal Republic of Yugoslavia concerning the fixing of sentence for coincident crimes and on meting out punishment to a convicted person, taking the punishment previously pronounced as already established. That portion of the punishment which the convicted person served under the previous conviction shall be deducted from the new punishment, but time spent on parole shall not be deducted.

The provisions of Paragraphs 1 through 3 of this article shall also apply when a parolee is tried for a crime which he committed before being paroled.

If a parolee is given an unsuspended prison sentence of less than 1 year, and the court does not revoke the parole, the parole shall be extended by the time which the convicted person spent to serve this other prison sentence.

#### Article 122

The decision on parole for convicted persons shall be made by the Parole Commission of the Federal Secretariat for National Defense on the basis of a petition from the convicted person or a member of his immediate family or the recommendation of the warden of the military penal institution.

The federal secretary for national defense shall appoint the members of the parole commission.

No appeal may be filed, nor may an administrative dispute be instituted against the decisions of the parole commission of the Federal Secretariat for National Defense as referred to in Paragraph 1 of this article.

#### Article 123

On the basis of a convicted person's good behavior, industry and active participation in other worthwhile activities of the institution, the warden of a military penal institution has the right to grant a convicted person conditional release up to 30 days before expiration of his sentence if he has already served three-fourths of the sentence.

#### 7. Other Provisions

#### Article 124

The federal secretary for national defense is hereby authorized to issue regulations concerning execution of the punishment of imprisonment in a military penal institution.

#### Chapter XII. Military Commercial Arbitration

#### Article 125

There shall be a Military Commercial Arbitration Commission in the Federal Secretariat for National Defense.

#### Article 126

The Military Commercial Arbitration Commission shall render decisions on the basis of law and general self-management acts, and shall be independent in its proceedings.

The Military Commercial Arbitration Commission shall also render decisions on the basis of usages, unless the parties have precluded the application of usages.

#### Article 127

The chairman of the Military Commercial Arbitration Commission shall be appointed by the federal secretary for national defense to a 4-year term.

Referees shall be chosen by the parties to a dispute from a list drawn up in advance to cover a 4-year period by the federal secretary for national defense.

#### Article 128

The competence of the Military Commercial Arbitration Commission is based on a written agreement (arbitration clause) between the parties. An agreement may also be concluded to cover a particular dispute and to cover future disputes which might arise out of a particular legal relationship.

#### Article 129

The competence of the Military Commercial Arbitration Commission can be stipulated in a contract solely to resolve commercial and other property disputes arising out of the following relations:

- 1) mutual relations among organizations of associated labor producing armaments and military equipment;
- 2) relations between organizations of associated labor producing armaments and military equipment and the Federation in connection with the conduct of business by military units and military institutions;
- 3) relations between the Federation and organizations of associated labor related to the conduct of business by military units and military institutions if the subject of the dispute concerns issues that have a bearing on national defense;
- 4) relations between organizations of associated labor producing armaments and military equipment and other organizations of associated labor if the subject of the dispute pertains to issues that have a bearing on national defense.

#### Article 130

The Military Commercial Arbitration Commission shall sit in a panel consisting of a chairman and two referees.

#### Article 131

The Military Commercial Arbitration Commission shall decide the main issue in a decision and shall make other determinations in the form of a resolution.

The decisions of the Military Commercial Arbitration Commission are final, and no appeal may be filed against them. They have the force of final court judgments.

A plea to quash a decision of the Military Commercial Arbitration Commission may be filed with the Federal Court if the written agreement concerning the competence of the Military Commercial Arbitration Commission was concluded contrary to the provisions of this law or on the grounds and within the periods under which a plea may be filed to quash the judgment of an elected court under the Law on Procedure in Civil Actions.

#### Article 132

The Federal Secretariat for National Defense shall provide the funds necessary for operation of the Military Commercial Arbitration Commission

and shall exercise general oversight concerning conduct of its administrative and financial business.

The federal secretary for national defense is hereby authorized to decide the amount of emolument and compensation to referees for their work on the Military Commercial Arbitration Commission and to regulate the conduct of administrative and financial business of the Military Commercial Arbitration Commission.

#### Article 133

The Military Commercial Arbitration Commission shall sit in plenums to adopt rules concerning the internal organization and procedure of the Military Commercial Arbitration Commission, such rules being subject to consent of the federal secretary for national defense.

The plenum of the Military Commercial Arbitration Commission shall consist of a chairman and all the referees of the arbitration commission. A quorum of the plenum shall be two-thirds of the referees of the Military Commercial Arbitration Commission. Decisions shall be made by majority vote of all the referees of the Military Commercial Arbitration Commission.

#### Article 134

The provisions of the Law on Procedure in Civil Actions pertaining to procedure in commercial disputes shall be appropriately applied in proceedings before the Military Commercial Arbitration Commission unless the rules on the internal organization and procedure of the Military Commercial Arbitration Commission prescribe some other procedure.

The level of expenses paid in proceedings before the Military Commercial Arbitration Commission and in executive proceedings shall be fixed by the rules referred to in Article 131, Paragraph 1, of this law.

The Military Commercial Arbitration Commission shall execute its own decisions and resolutions in accordance with rules of law and regulations concerning executive procedure.

### Chapter XIII. Transitional and Final Provisions

#### Article 135

The examination for the rank of captain in the legal service or for a higher rank of officer in the legal service which has been passed under the previous regulations shall be equivalent to passing the examination for the rank of major in the legal service with regard to the rights contained in this law.

#### Article 136

An examination which officers in the legal service and military employees of the Yugoslav People's Army who have a law degree have taken and passed for the rank of major or military employee third grade in the legal service and which under the Basic Law on the Magistrate's Examination (SLUZBENI LIST SFRJ, No 15, 1967) is equivalent to the magistrate's examination shall be accepted as equivalent to passing the magistrate's examination.

Officers and military employees in the legal service of the Yugoslav People's Army who under the Decree on the Judge's Examination (SLUZBENI LIST FNRJ [OFFICIAL GAZETTE OF THE FEDERAL PEOPLE'S REPUBLIC OF YUGOSLAVIA], No 57, 1955) acquired rights dependent upon passing the judge's examination or who under the Basic Law on the Magistrate's Examination (SLUZBENI LIST SFRJ, No 15, 1967) are equivalent in their rights to persons who have passed the magistrate's examination shall be granted rights equivalent to those of persons who have passed the magistrate's examination.

The existence of the rights referred to in this article shall be determined at the request of the interested individuals by that body or agency designated by the statute of the republic or autonomous province.

#### Article 137

Individuals who on the date when this law takes effect are holding the offices of judges of military courts or presidents of military courts and the chairman of the Military Commercial Arbitration Commission shall remain in those posts no longer than 6 months from the date when this law takes effect.

Lay judges and referees of the Military Commercial Arbitration Commission shall remain in those posts until the end of the term to which they have been appointed or named under statutes previously in effect.

#### Article 138

Individuals convicted as members of the armed forces who before 1 July 1977 are sent to serve sentences in a military prison under the Law on Execution of Sanctions in Criminal Law (SLUZBENI LIST SFRJ, No 3, 1970) shall serve their sentence in that prison.

#### Article 139

The Supreme Military Court shall sit as a special tribunal (Article 26, Paragraph 2) in ruling on appeals against judgments whereby the Supreme Military Court has pronounced the punishment of strict imprisonment of 20 years or has confirmed the judgment of a military court of first instance pronouncing such punishment and which were filed between 8 May 1974, which is the date when the Law on the Federal Court took effect, and 1 July 1977.

Article 140

The Law on Military Courts (SLUZBENI LIST SFRJ, No 51, 1969) shall cease to be valid on the day when this law takes effect.

Article 141

The provisions of this law shall be enforced from 1 July 1977 except for the provisions of Article 137, Paragraph 1, and Article 139, which shall be enforced from the date when this law takes effect.

Article 142

This law shall take effect on the eighth day after publication in SLUZBENI LIST SFRJ.

7045

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YUGOSLAVIA

LAW ON MILITARY PROSECUTOR'S OFFICE

Belgrade SLUZHBI LIST SFRJ in Serbo-Croatian 14 Jan 77 pp 327-330

[Law passed by the SFRY [Socialist Federal Republic of Yugoslavia] Assembly in a session of the Federal Chamber on 24 December 1976]

[Text] I. Basic Provisions

Article 1

The military prosecutor's office shall prosecute those who commit crimes which are in the jurisdiction of military courts, shall take certain steps to protect the interests of the social community, and shall institute legal proceedings to protect constitutionality and lawfulness in the manner prescribed by this law and other federal law.

Article 2

The military prosecutor's office shall perform its function on the basis of the constitution and law and in accordance with the policy established by the general acts of the SFRY Assembly and the provisions set forth in the guidelines and other acts of the commander in chief of the armed forces of the Socialist Federal Republic of Yugoslavia (hereafter referred to as the "commander in chief of the armed forces").

Article 3

The function of military prosecution shall be performed by military prosecutor's offices established in units and institutions of the Yugoslav People's Army and by the Military Prosecutor's Office of the Yugoslav People's Army.

Military prosecutor's offices in units and institutions of the Yugoslav People's Army are established for individual units or institutions of the Yugoslav People's Army or for a particular military district or for particular units or institutions of the Yugoslav People's Army and for a particular military district.

The commander in chief of the armed forces shall order the establishment, abolition, table of organization, seat and jurisdiction of military prosecutor's offices in units and institutions of the Yugoslav People's Army and the table of organization and seat of the Military Prosecutor's Office of the Yugoslav People's Army.

#### Article 4

In performance of their tasks military prosecutor's offices shall follow and study social relations and trends that have a bearing on performance of the function of military prosecution, specifically those which pertain to national defense and the country's security, the exercise of the rights of members of the armed forces and legality of the actions of military authorities, and on the basis of their observations they shall make such recommendations to the competent military authorities, assemblies of the relevant sociopolitical communities and other government bodies, agencies and organizations as might prevent occurrences dangerous and harmful to society and might strengthen lawfulness, civic responsibility and socialist ethics.

#### Article 5

A military prosecutor's office of a unit or institution of the Yugoslav People's Army shall report to the commanding officer of that unit or institution and to the Military Prosecutor's Office of the Yugoslav People's Army concerning enforcement of the law and its own activity.

The Military Prosecutor's Office of the Yugoslav People's Army, through the federal secretary for national defense, shall report to the commander in chief of the armed forces concerning the enforcement of the law, its own activity, and the activity of military prosecutor's offices.

### II. Jurisdiction and Authority

#### Article 6

It shall be the right and duty of the military prosecutor to prosecute those who commit crimes that fall within the jurisdiction of military courts and which are automatically prosecuted and perform the following related functions:

- 1) to take the steps necessary to discover crimes and find those who committed them and to guide preliminary criminal proceedings;
- 2) to call for an inquiry to be conducted;
- 3) to bring and defend a bill of indictment or charges before the military court of competent jurisdiction;

4) to file an appeal against court judgments and to institute extraordinary legal proceedings against final court judgments.

The military prosecutor shall also exercise other rights and discharge other duties vested in him by federal law.

#### Article 7

In performance of the function of criminal prosecution the military prosecutor's office shall cooperate with agencies responsible under law for detecting and reporting crimes within the jurisdiction of military courts which are automatically prosecuted.

#### Article 8

In civil proceedings, administrative proceedings and an administrative dispute being conducted before a military court or military authority, as well as in disciplinary proceedings and misdemeanor proceedings the military prosecutor shall take those steps under the law which are taken by the public prosecutor within his own jurisdiction.

#### Article 9

The military prosecutor of the Yugoslav People's Army shall institute an administrative dispute before the Supreme Military Court against administrative acts of military authorities and also--when federal law so provides--against the administrative acts of other federal bodies and agencies, federal organizations and communities which violate the law to the advantage of an individual or juridical person.

#### Article 10

The military prosecutor of the Yugoslav People's Army shall institute proceedings before the competent constitutional court for evaluation of the constitutionality of a law or for evaluation of the constitutionality and lawfulness of other statutes or general acts or general self-management acts if the issue of constitutionality or lawfulness has been raised in the work of the military prosecutor's office.

If a military prosecutor finds that a law or other regulation or general act does not conform to the constitution or law, he shall report this to the military prosecutor of the Yugoslav People's Army.

#### Article 11

If the military prosecutor of the Yugoslav People's Army finds that because of a violation of a law or international treaty there are grounds for legal proceedings to be instituted against the final judgment of a military court or final decision of a military authority made in

disciplinary or other administrative proceedings, he may move that execution of such judgment or decision be postponed or interrupted.

The military prosecutor of the Yugoslav People's Army shall submit the petition for postponement or interruption of execution of a judgment or decision to the military court or military authority competent to allow execution.

Execution of a judgment or decision shall be postponed or interrupted by a military court or military authority upon the petition of the military prosecutor of the Yugoslav People's Army.

Execution of a decision postponed or interrupted shall be resumed if within 30 days from the date of receipt of the decision to postpone or interrupt execution the military prosecutor of the Yugoslav People's Army does not institute legal proceedings.

#### Article 12

The military prosecutor of the Yugoslav People's Army shall file petition for protection of lawfulness against final decisions of military courts and final decisions of other authorities of the Yugoslav People's Army.

#### Article 13

When the Federal Court is ruling on an appeal against a judgment of the Supreme Military Court which pronounced or confirmed capital punishment, on a petition for protection of lawfulness filed by the military prosecutor of the Yugoslav People's Army or on a jurisdictional conflict between military courts and other regular courts, the military prosecutor of the Yugoslav People's Army shall take all the steps before the Federal Court which the law vests in the federal public prosecutor.

#### Article 14

The military prosecutor's office is authorized to request of government bodies and agencies, organizations of associated labor and other self-managed organizations and communities that they furnish it documents and reports it needs to undertake actions within its jurisdiction.

The military prosecutor's office may also seek other legal aid from a competent court or other government body or agency which it needs in performance of its functions.

#### Article 15

The military prosecutor's office has a duty to accept criminal charges and other petitions and statements from members of the armed forces, civilians serving in the Yugoslav Armed Forces and other civilians, military

units and military institutions and other government bodies and agencies, organizations of associated labor and other self-managed organizations and communities concerning cases that lie within its jurisdiction for purposes of taking those actions it is authorized to take.

The military prosecutor's office may summon an individual who has filed criminal charges and seek the necessary information from him.

### III. Organization and Procedure

#### Article 16

The authority of the military prosecutor's office shall be exercised by the military prosecutor of the Yugoslav People's Army and by the military prosecutors of units and institutions of the Yugoslav People's Army.

Every military prosecutor shall act within the confines of his competent jurisdiction with respect to subject matter and place.

The military prosecutor of the Yugoslav People's Army is competent to conduct proceedings before the Supreme Military Court and the Federal Court.

#### Article 17

The military prosecutor of the Yugoslav People's Army shall oversee the work of military prosecutors.

The military prosecutor of the Yugoslav People's Army shall guide the work of military prosecutor's offices and may in that connection criticize the work of military prosecutors and issue them mandatory instructions concerning proper performance of their duties. The instructions of the military prosecutor of the Yugoslav People's Army may also pertain to prosecution of a particular case and are binding upon the military prosecutor.

#### Article 18

The military prosecutor of the Yugoslav People's Army may himself exercise all the rights and discharge all the duties to which a military prosecutor is entitled under the law.

The military prosecutor of the Yugoslav People's Army may undertake to perform particular actions that lie in the competence of a military prosecutor or delegate to a military prosecutor action in a particular case or perform particular actions within the competence of another military prosecutor.

#### Article 19

The military prosecutor shall supervise the work of the military prosecutor's office.

The military prosecutor may have the necessary number of deputies and assistants as called for in the table of organization.

The deputy military prosecutor may perform any action in proceedings before a court or other government body or agency the military prosecutor is legally authorized to perform except those actions whose performance under this law or other federal law fall within the exclusive jurisdiction of the military prosecutor of the Yugoslav People's Army.

#### Article 20

There shall be the necessary number of individuals whose staff positions are set forth in the table of organization to perform the administrative and other technical business in the military prosecutor's office.

#### Article 21

Only an officer in the legal service who has a law degree and who has passed the examination for the rank of major in the legal service or the magistrate's examination may be appointed a military prosecutor or deputy military prosecutor, and only an officer in the legal service who has a law degree may be appointed an assistant military prosecutor.

#### Article 22

The commander in chief of the armed forces shall appoint and dismiss military prosecutors.

Deputy military prosecutors and assistant military prosecutors shall be appointed and dismissed under regulations concerning appointments of active members of the armed forces.

#### Article 23

The military prosecutor and deputy military prosecutor shall be appointed to 4-year terms. They may be reappointed at the end of that term.

#### Article 24

Before taking up their office military prosecutors and deputy and assistant military prosecutors shall take the following solemn oath:

"I swear that in my work I will abide by the constitution and law, that I will perform my duty in the military prosecutor's office conscientiously and impartially and that I will defend the order of the Socialist Federal Republic of Yugoslavia."

Military prosecutors shall take the oath before the commander in chief of the armed forces or senior officer whom he designates.

Deputy and assistant military prosecutors shall take the oath before the federal secretary of national defense or before a senior officer whom he designates.

#### Article 25

The military prosecutor, deputy military prosecutor or assistant military prosecutor shall be suspended during the time he is in custody or serving a prison sentence because of a crime.

The individual referred to in Paragraph 1 of this article may be suspended if criminal proceedings have been instituted against him or if a petition for his removal has been filed because he has been convicted of a crime or has committed a serious violation of his duties as a prosecutor or has committed an act demeaning to the position of prosecutor, or has shown himself unworthy or morally and politically unfit to perform the duties of a prosecutor.

The petition for suspension in the case referred to in Paragraph 2 of this article shall be filed by the military prosecutor of the Yugoslav People's Army for a deputy military prosecutor of the Yugoslav People's Army and military prosecutors and deputy or assistant military prosecutors, and it shall be filed by the federal secretary for national defense in the case of a military prosecutor of the Yugoslav People's Army.

The suspension referred to in Paragraph 1 of this article shall be decided by the military prosecutor for his own deputies and assistants, by the military prosecutor of the Yugoslav People's Army for military prosecutors, and by the commander in chief of the armed forces for the military prosecutor of the Yugoslav People's Army.

The act of suspension in the case referred to in Paragraph 2 of this article shall be made by the commander in chief of the armed forces in the case of military prosecutors and by the commanding officer competent to appoint them for deputy and assistant military prosecutors.

#### Article 26

A military prosecutor or deputy military prosecutor shall be removed before the end of his term in the following cases:

- 1) if he is transferred to another post with his consent;
- 2) if his active military service terminates;
- 3) if he is given an unsuspended prison sentence exceeding 6 months or a milder punishment for a crime which makes him unworthy to perform the duties of a prosecutor;

- 4) if it is found that he has committed a serious violation of his duties as a prosecutor or has committed an act demeaning to the position of prosecutor;
- 5) if it is found that he has demonstrated in his work that he is incompetent to perform the duties of a prosecutor;
- 6) if it is found that he did not qualify to be appointed a military prosecutor or deputy military prosecutor.
- 7) if on the basis of the opinion of the competent military medical commission it is found that he is unfit to perform the duties of a prosecutor because of his state of health;
- 8) if it is found that he is morally and politically unsuitable to perform the duties of a prosecutor;
- 9) if in his work he does not abide by the constitution and law, the policies set forth in the general acts of the SFRY Assembly and the positions taken in guidelines or other acts of the commander in chief of the armed forces;
- 10) if he himself asks to be discharged.

#### Article 27

A deputy military prosecutor may be removed if an act of a competent body reduces the number of deputies in the military prosecutor's office.

A military prosecutor or deputy military prosecutor shall be considered removed if the military prosecutor's office to which he was appointed has been abolished.

#### Article 28

The active removal of a military prosecutor or deputy military prosecutor on the grounds that he has been given an unsuspended prison sentence of 6 months or milder penalty for a crime which makes him unfit to perform the duties of a military prosecutor or deputy military prosecutor or on the grounds enumerated in Article 26, Points 4, 5, 6, 8 and 9 of this law, may be rendered only if proceedings have first been conducted to establish existence of the grounds for removal and if in those proceedings the military prosecutor or deputy military prosecutor has been examined and afforded an opportunity to state his position concerning the grounds for his removal.

The proceedings to ascertain the grounds referred to in Paragraph 1 of this article for removal of a military prosecutor or deputy military prosecutor shall be conducted by a three-member commission consisting of military



prosecutors, deputy military prosecutors and other officers. The commission shall be created by the military prosecutor of the Yugoslav People's Army or--when the defendant is the military prosecutor of the Yugoslav People's Army--by the federal secretary for national defense.

A petition for removal on the grounds enumerated in Paragraph 1 of this article shall be submitted after the opinion has been obtained from the commission which has conducted proceedings to ascertain grounds for removal.

#### Article 29

A military prosecutor or deputy military prosecutor may not perform his duties if criminal proceedings have been instituted against him for a crime which is automatically prosecuted or proceedings have been instituted for his removal under Article 28 of this law--so long as such proceedings are pending.

#### Article 30

The provisions of the Law on Service in the Armed Forces governing relations in the service, rights, duties and responsibilities of members of the armed forces shall apply to military prosecutors and deputy and assistant military prosecutors unless this law specifies otherwise.

#### Article 31

Military prosecutors and deputy and assistant military prosecutors shall be evaluated according to regulations concerning fitness reports of members of the armed forces, but the regular evaluation of military prosecutors and deputy military prosecutors shall be made 6 months before expiration of the term to which they have been appointed.

#### Article 32

So that they might acquire the necessary experience, members of the armed forces who have a law degree shall be assigned to a period of training in military prosecutor's offices when they graduate from law school.

The federal secretary for national defense shall issue regulations concerning the practical experience of trainees and the duration of this training period.

#### Article 33

The Federal Secretariat for National Defense shall perform the functions pertaining to dealing with the organizational, personnel, supply and financial matters essential to the operation of military prosecutor's offices, to promotion of the work and conduct of the business of military

prosecutor's offices, to the keeping of records, and to other business essential to the operation of military prosecutor's offices.

#### Article 34

Every military prosecutor's office shall have a stamp containing the name and seat of the military prosecutor's office and the emblem of the Socialist Federal Republic of Yugoslavia. The name and seat of the military prosecutor's office shall be written in the languages and scripts of the nationalities of Yugoslavia.

A sign bearing the name of the military prosecutor in the languages and scripts of the nationalities of Yugoslavia must be displayed on the building where the military prosecutor's office is located.

#### Article 35

The military prosecutor of the Yugoslav People's Army shall issue rules on the internal organization and procedure of the military prosecutor's office.

### IV. Transitional and Final Provisions

#### Article 36

The examination for the rank of captain in the legal service or for a higher rank of officer in the legal service which was passed under the statutes and regulations previously in effect shall be accepted as equivalent to passing the examination for the rank of major in the legal service for the purpose of the rights afforded in this law.

#### Article 37

Individuals who as of the date when this law takes effect hold the offices of military prosecutor of the Yugoslav People's Army and military prosecutors in units or institutions of the Yugoslav People's Army and their deputies shall remain in those posts no longer than 6 months from the date when this law takes effect.

#### Article 38

The Law on the Military Prosecutor's Office (SLUZHBI LIST SFRJ, No 7, 1965) shall cease to be valid on the day when this law takes effect.

#### Article 39

The provisions of this law shall be enforced from 1 July 1977 except for the provision of Article 37, which shall be enforced from the date when this law takes effect.

Article 40

This law shall take effect on the eighth day after publication in SLUZBENI LIST SFRJ.

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END